

**CITY OF EUREKA  
CITY COUNCIL/  
REDEVELOPMENT AGENCY  
AGENDA**

Marian Brady 1<sup>st</sup> Ward  
Linda Atkins 2<sup>nd</sup> Ward  
Mike Newman 3<sup>rd</sup> Ward  
Melinda Ciarabellini 4<sup>th</sup> Ward  
Lance Madsen 5<sup>th</sup> Ward



Frank J. Jäger, Mayor

**REGULAR MEETING  
TUESDAY, JUNE 21, 2011  
CLOSED SESSION 5:00 P.M.  
REGULAR SESSION 6:00 P.M.  
COUNCIL CHAMBER  
531 K STREET  
EUREKA, CA 95501**

David Tyson, City Manager  
Pam Powell, City Clerk  
William Bragg, Interim City Attorney

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**CLOSED SESSION**

*If closed session items cannot be completed by 5:55 P.M., they will be continued at the conclusion of the regular agenda, provided there is time. If time does not allow then those closed session items will be continued to the next regular meeting.*

**A. PUBLIC COMMENT PERIOD**

(Limited to 3 minutes each speaker on closed session agenda items only)

**B. Conference with labor negotiators**

Agency designated representatives: Gary M. Bird for City of Eureka

Employee organization: Eureka Fire Officers Local (EFOL)

*Pursuant to California Government Code Section 54957.6*

**C. Conference with legal counsel – existing litigation**

Humboldt Baykeeper, et al v. City of Eureka, et al (Humboldt Co. Superior Court No. CV100494)

*Pursuant to California Government Code Section 54956.9(a)*

**D. Conference with real property negotiators - Property: APN 001-054-45 and 001-054-13**

Agency negotiator: David W. Tyson for the City of Eureka

Negotiating Parties: Eureka Waterfront Partners

Under negotiation: price, terms, and conditions

*Pursuant to California Government Code Section 54956.8*

**E. Public Employee Evaluation: Police Chief**

*Pursuant to California Government Code Section 54957*

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**REGULAR SESSION – 6:00 P.M.**

**ROLL CALL**

**INVOCATION** - Pastor G.L. Upshaw, Galilee Baptist Church

**PLEDGE OF ALLEGIANCE**

**REPORT OUT OF CLOSED SESSION**

**MAYOR'S ANNOUNCEMENTS**

4<sup>th</sup> of July Firework Display – Mike Jones

**COUNCIL REPORTS / CITY-RELATED TRAVEL REPORTS**

**BOARD/COMMISSION REPORTS**

Keep Eureka Beautiful

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**PUBLIC HEARINGS**

*Public Hearings are scheduled for a time certain of 6:00 P.M. unless noticed otherwise, or as soon thereafter as possible.*

1. Public Hearing – Zook Variance Appeal: 1523 Everding Street (APN 012-206-014)  
Recommendation:
    1. Hold a public hearing; and
    2. Adopt a Resolution of the City Council “Findings of Fact”; and
    3. Uphold the May 9, 2011, action of the Planning Commissions and deny the appeal.  
(Community Development)
  2. Public Hearing – Vacate that Easement Reserved by Ordinance No. 2709 Located between Wabash Avenue and Del Norte Street from Short Street to Koster Street.  
Recommendation:
    1. Hold a public hearing; and
    2. Determine the Easement to be surplus; and
    3. Determine that vacating the Easement will have a cost-neutral or positive financial benefit to the City; and
    4. Order the Vacation of that Easement by adopting a Resolution of the City Council Ordering the Vacation of the Easement reserved by Ordinance No. 2709 located between Wabash Avenue and Del Norte Street from Short Street to Koster Street.  
(City Engineer)
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## PUBLIC COMMENT PERIOD

*This is the time for members of the public who wish to be heard on matters that do not appear on the Agenda. Pursuant to City Council Resolution No. 2011-22, City Council policy is to limit each speaker to three (3) minutes. Such time allotment or portion thereof shall not be transferred to other speakers. The public will be allowed to speak concurrently with the calling of an agenda item following the staff presentation of that item.*

*Pursuant to the Brown Act, the City Council may not take action on an item that does not appear on the Agenda.*

3. Is there any person in the audience who wishes to address the Council at this time?

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## CONSENT CALENDAR

**Notice to the Public:** *All matters listed under this category are considered to be routine by the City Council and will be enacted by one motion. Pursuant to City Council Resolution 2011-22, if a member of the public would like an item on the Consent Calendar pulled and discussed separately, the request shall be made to a Councilmember prior to the meeting. Unless a specific request is made by a Councilmember, the Consent Calendar will not be read. There will be no separate discussion of these items.*

4. Council meeting minutes.

Recommendation: Approve the regular Council/Redevelopment Agency Board meeting minutes of May 17, 2011 and the special Council/Redevelopment Agency Board meeting minutes of May 26, 2011 and June 2, 2011 as submitted.  
(City Clerk)

5. Spellenberg, Jamee

Recommendation: Reject the claim for damages.  
(City Attorney)

6. Grossman, Simone

Recommendation: Reject the claim for damages.  
(City Attorney)

7. Redevelopment Agency – Extension of Exclusive Right to Negotiate (ERTN) Agreement with Marty & Michele L’Herault DBA Old town Carriage Company

Recommendation: Authorize a 180 day Exclusive Right to Negotiate Agreement extension between the Eureka Redevelopment Agency and

Marty and Michele L'Herault dba Old Town Carriage Company, for the purchase and development of APN 001-013-016, located at 1<sup>st</sup> and "C" Streets.  
(Redevelopment Director)

8. Request for Exception to the Hiring Freeze

Recommendation: Approve an exception to the hiring freeze for the Fire Services Officer position.  
(Personnel Director)

9. Eureka Payments Credit Card Processing Contract

Recommendation: 1. Approve the contract with Eureka Payments as the City's credit card transactions processing company; and  
2. Authorize the Finance Director to sign all documents related to the agreement.  
(Finance Director)

10. Harris Street Signalization Bid No. 2010-03

Recommendation: 1. Declare Smith Electric the low bidder for the Harris Street Signalization Project; and  
2. Award Bid No. 2010-03 to Smith Electric for the amount of \$172,908.00; and approve \$185,000 for construction, which includes a contingency of approximately 7%.  
(City Engineer)

11. Salt Marsh Mitigation Project Professional Services Contract

Recommendation: Authorize staff to execute a contract with SHN Consulting Engineers and Geologist, Inc. for Profession Engineering Services (Restoration Specialist/Landscape Contractor) for the Salt Marsh Mitigation Project, Phase I in the amount of \$98,000.  
(City Engineer)

12. Mayor's appointments to boards, commissions and committees.

Recommendation: Approve the Mayor's appointments and re-appointments to boards, commissions, and committees with the following term expirations dates:

Board of Appeals	Re-appt Paul Christen	01/01/2015
Board of Appeals	Re-appt Ross A. Nash	01/01/2015
Board of Appeals	Re-appt Charles Roscoe	01/01/2015
Board of Appeals	Re-appt John Vandermolen	01/01/2015
Finance Advisory	Appoint Bill Hancock	01/01/2013
Finance Advisory	Re-appt Robert R. Bartley	01/01/2015
Housing Advisory Board:	Appoint Margaret Stevens	01/01/2013

Historic Preservation	Re-appt Bill Hole	12/31/2014
Historic Preservation	Re-appt Ted Loring	12/31/2014
Personnel Board	Re-appt Loretta Nickolaus (Mayor)	01/01/2015

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## ORDINANCES/RESOLUTIONS

13. Redevelopment Agency – Exclusive Right to Negotiate e (ERTN) Agreement with Mission: SwimPossible

Recommendation: 1. Adopt a Joint Resolution of the City Council and Redevelopment Agency approving an Exclusive Right to Negotiate Agreement (ERTN) with Mission: SwimPossible, a not-for-profit organization, for the purchase and development of Agency property APN 002-241-013 located on Waterfront Drive, and known as the Halvorsen site; and  
2. Authorize execution of a one year ERTN between the Eureka Redevelopment Agency and Mission: SwimPossible  
(Redevelopment Director)

14. Periodic Review of Service Rate Adjustment for Solid Waste Collection

Recommendation: Adopt a Resolution of the City Council approving a solid waste collection rate increase by Recology Humboldt County effective July 1, 2011.  
(Public Works Director)

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## REPORTS/ACTION ITEMS

15. County General Plan Update and Multi-Family Rezone

Recommendation: Receive Report  
(City Council)

16. Fee Waiver Request – North Coast Big Brothers, Bid Sisters Fundraiser

Recommendation: 1. Deny request for a Adorni facility fee waiver from the North Coast Big Sisters Big Brothers organization as per Fee Waiver Request Policy No. 1.76; or  
2. Reinstate the Non-Profit 50% discount in place prior to the adoption of the 2010/11 Budget for this event only; or  
3. Require event holders to only pay for “hard costs”, i.e. actual staff time and supplies for the event, estimated at \$225.00.

(City Manager)

17. Redevelopment Agency - "C" Street Market Square Water Feature Sculpture  
Recommendation: 1. Authorize the execution of an agreement with local Eureka sculptor Jack Sewell for the design, construction and installation of the "C" Street Market Square Water Feature Sculpture; and  
2. Approve expenditure not to exceed \$30,000 from Redevelopment Bond Proceeds for the "C" Street Market Square Water Feature Sculpture Project within the Redevelopment Project Area.  
(Redevelopment Director)
18. 2011 Fireworks Display  
Recommendation: 1. Authorize the City Staff to coordinate the annual 4<sup>th</sup> of July Fireworks display and to execute an agreement with PYRO Spectaculars; and  
2. Appropriate the \$40,000 in community donations received to fund the 2011 4<sup>th</sup> of July Fireworks display.  
(City Manager)
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#### **CITY MANAGER/EXECUTIVE DIRECTOR'S REPORTS**

Public Safety Report: Eureka Fire Department  
Harris Street Improvements

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#### **ADJOURNMENT**

*If open session items cannot be completed by 9:30 P.M., the meeting may be adjourned to the next regular meeting or Council may vote to extend the meeting.*

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## NOTICES

- The City Council agenda and supporting documents are available for public review on the Friday afternoon prior to the Tuesday meeting at the City Clerk's Office, the Eureka Humboldt County Library and on-line at [www.ci.eureka.ca.gov](http://www.ci.eureka.ca.gov).
- The numerical order of items on this agenda is for convenience of reference. Items may be taken out of order upon the request and consensus of the Mayor and Council.
- Any writing that is a public record not exempt from public disclosure and relating to an agenda item for open session of the City Council is available for public inspection at the Office of the City Clerk, 531 K Street, Room 207, Eureka, CA 95501.
- The meeting rooms are ADA accessible. Accommodations and access to City meetings for people with special needs must be requested of the City Clerk at 441-4175 72 hours in advance of the meeting. This agenda and other materials are available in alternate formats upon request.
- All persons in attendance at public meetings are requested to observe the following rules of civil debate:
  1. We may disagree, but we will be respectful of one another.
  2. All comments will be directed to the issue at hand.
  3. Personal attacks are unacceptable.

Applauding or other displays of approval/disapproval are discouraged.

- Regular City Council/Redevelopment Agency meetings are broadcast live by Humboldt Access on Cable Channel 10. Council meetings can also be viewed on line at [www.accesshumboldt.net](http://www.accesshumboldt.net) – Search archives "Eureka City Council Meetings".
- To minimize distractions, please be sure all personal communication devices are turned off or on silent mode.

Questions? Please e-mail [ppowell@ci.eureka.ca.gov](mailto:ppowell@ci.eureka.ca.gov) or contact the City Clerk's office at (707) 441-4175.

**AGENDA SUMMARY**

**RE: ZOOK VARIANCE APPEAL; 1523 EVERDING: APN 012-206-014; APPEAL OF THE PLANNING COMMISSION ACTION TO DENY THE REQUESTED VARIANCE TO EXCEED THE 640 SQUARE FOOT MAXIMUM FLOOR AREA FOR SECONDARY DWELLING UNITS (V-11-0001)**

**FOR AGENDA DATE: JUNE 21, 2011**

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**RECOMMENDATION:**

1. Hold a Public Hearing
2. Adopt the Resolution of the City Council approving the Findings of Fact in Exhibit A.
3. Uphold the May 9, 2011, action of the Planning Commission and deny the appeal.

**SUMMARY:** On May 9, 2011, after holding a public hearing, the Planning Commission denied the applicant's request for a variance to allow the construction of an approximate 913 square foot Secondary Dwelling Unit (SDU), which exceeds the 640 square foot maximum floor area allowed for an SDU by approximately 273 square feet. The proposed SDU meets all other development standards.

**ATTACHMENTS:**


Exhibit A	Findings of Fact.....	pages 7-8
Exhibit B	Council Resolution adopting the Findings of Fact.....	pages 9-11
Attachment 1	Notice of Appeal .....	page A
Exhibit C	Supplement to Staff Report May 9, 2011.....	pages 12-16
Exhibit D	Post Meeting Letter for April 18, 2011 meeting .....	page 17
Exhibit E	Applicant Letter .....	pages 18-19
Exhibit F	Samples of Floor Plans for Accessible Units.....	pages 20-30
Exhibit G	Original Staff Report April 18, 2011 .....	pages 31-42

*prepared by: Kristen M. Goetz, Assistant Planner*

*Continued page 2*

**FISCAL IMPACT:** None with this action.

**DEPARTMENT HEAD SIGNATURE:**

  
Lisa D. Shikany

Interim Director of Community Development

**CITY MANAGER SIGNATURE:**

  
David W. Tyson

City Manager

**REVIEWED BY:**

Assistant City Manager  
City Attorney

**DATE:**

6-15-11  
6-16-11

**INITIALS:**

MK  
WRB

**Council Action:**

Ordinance No. \_\_\_\_\_

Resolution No. \_\_\_\_\_



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**SUMMARY** (continued):

**Background:** In January, 2011, the applicant applied for a variance to allow a Secondary Dwelling Unit (SDU) to exceed the 640 square foot maximum floor area limitation set for SDU's by the Eureka Municipal Code (EMC). The Planning Commission held a public hearing on April 18, 2011, and after weighing the testimony received and deliberating, tabled the item to allow the applicant time to work with Staff to determine whether it was necessary to exceed the maximum floor area in order to provide an accessible SDU. The applicant indicated to the Commission that he was not interested in constructing an SDU any smaller than what he was proposing, regardless of the outcome of Staff's research. The applicant was asked in a post meeting letter to contact Staff by a date certain in order to work on the project, and still allow time to prepare and include any resulting information in the Commission's agenda packets. The applicant did not contact Staff, but instead left a letter at the department refuting Staff's verbal and written reports. At their May 9, 2011, meeting, the Commission reopened the public hearing, received testimony, and following deliberation, voted 4-0 with one Commissioner absent, to deny the requested Variance. The applicant filed an appeal on May 19, 2011, which was within the 10 day appeal period that follows the Planning Commission's action as prescribed by the Eureka Municipal Code.

The applicant is requesting approval of an approximate 913 square foot SDU where up to 640 square feet is allowed. The proposed floor area exceeds the allowed 640 square foot maximum floor area by approximately 273 square feet. The proposed project meets all other development standards. The applicant contends that the extra square footage is required to allow the SDU to be wheelchair accessible. At the May, 2011, Planning Commission meeting, Staff provided the Commission with samples of floor plans for ADA accessible units that are approximately 640 square feet or less, thus demonstrating that an accessible SDU could be provided and still comply with the 640 square foot floor area limitation.

The lot on which the SDU is proposed is flat and is an oversized 90 foot by 110 foot, 9,900 square foot parcel, currently developed with a 1,344 square foot single family residence and an existing 546 square foot attached garage. Standard lot size for interior lots is 60 feet by 100 feet and 6,000 square feet.

**Variances:** Authority to grant variances comes from California Government Code §65901 et seq., and is codified in the Eureka Municipal Code (§155.310 et seq.). The EMC states that a Variance is a waiver or modification of certain requirements of the Eureka Municipal Code and allows modification of zoning requirements when the strict application of a given set of requirements results in a practical difficulty or unnecessary physical hardship. Further, Government Code §65906 states, in part:

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*"Variances from the terms of the zoning ordinances shall be granted only when, because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.*

*Any variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated."*

Variances are limited to those situations where the peculiar physical characteristics of a site make it difficult to develop under standard regulations. A variance is granted in order to bring the disadvantaged property up to the level of use enjoyed by nearby properties in the same zone. For instance, where the steep rear portion of a residential lot makes the site otherwise undevelopable, a variance might be approved to reduce the front yard setback and thereby create sufficient room for a home on the lot. Similarly, a parcel's shape might preclude construction of a garage unless side yard setback requirements are reduced by approval of a variance.

Review of a proposed variance must be limited solely to the physical circumstances of the property. "The standard of hardship with regard to applications for variances relates to the property, not to the person who owns it" (*California Zoning Practice*, Hagman, et al.). Financial hardship, community benefit, or the worthiness of the project are not considerations in determining whether to approve a variance (*Orinda Association v. Board of Supervisors* (1986) 182 Cal.App.3d 1145). As *California Zoning Practice* succinctly explains, "[t]he test of bringing property to parity is based on equality of the property rather than equality of the owners."

Variances are only for use in unusual, individual circumstances. There is no basis for granting a variance if the circumstances of the project site cannot be distinguished from those on surrounding lots. For example, all things being equal, in a subdivision where lots are uniformly 40 feet wide, there is no basis for allowing one lot to be developed with reduced side yard setbacks.

**Secondary Dwelling Unit:** When the State of California implemented a mandate aimed at streamlining the Secondary Dwelling Unit (SDU) Permit process in 2002, the City of Eureka chose to retain some level of control over the ministerial permitting process for Secondary Dwelling Units in Single Family Zoned areas by establishing a series of quantifiable development standards to be used as a rule for determining which permits required further discretionary review. These development standards include such elements as minimum lot dimension, maximum allowable gross floor area of Secondary Dwelling Unit development, parking requirements, height limits, owner-occupancy, etc. These quantifiable elements were established as a "minimum standard" with the idea that the projects meeting these "minimum criteria" would not have adverse impacts on their

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surrounding neighborhoods and can therefore be authorized with a ministerial permit. Secondary Dwelling Units that did not comply with the standards would be subject to additional discretionary review through the variance process to assure that they did not adversely affect the surrounding one-family residential neighborhood.

The City's Secondary Dwelling Unit Ordinance (Eureka Municipal Code [EMC] §155.200 et seq.) specifies, "The maximum gross floor area of the secondary dwelling unit shall not exceed 640 square feet" (EMC §155.202 (E)).

**Analysis:** In order to approve this variance, the Planning Commission needed to make the following findings:

- 1) *That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity; and*
- 2) *That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district; and*
- 3) *And one of the following findings:*
  - a) *That the strict or literal interpretation and enforcement of the specified regulation would result in a practical difficulty or an unnecessary physical hardship inconsistent with the objectives of this chapter; or*
  - b) *That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties classified in the same zoning district; or*
  - c) *That the strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.*

A detailed analysis of the variance relative to these findings can be found in the Planning Commission Staff Report dated April 18, 2011 (Exhibit B), and the Supplemental Staff report dated May 9, 2011, (Exhibit C). Consistent with Staff's recommendations, the Planning Commission denied the requested variance, finding that although granting the variance would not negatively impact the public health, safety or welfare, it granting the variance would constitute a grant of special privilege, and further found that enforcing the 640 square foot limit on the size of the SDU would not result in a practical difficulty or unnecessary physical hardship, nor would it deprive the applicant of privileges enjoyed by other property owners in the same zoning district. The Commission also found there were no exceptional or extraordinary circumstances or conditions applicable to this property that do not also generally apply to other properties in the same zoning district that would deprive the applicant of the use of the property for the residential purpose for which it is zoned.

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Since this property is oversized, and has no physical disadvantages, granting this variance would grant this property an advantage (i.e., a special privilege) that other properties in similar circumstances don't have. The only reason for this variance request is the applicant's desire for an accessible SDU of a size that is larger than allowed by ordinance, or for that matter, larger than what is needed in order for the SDU to be accessible. In other words, there is nothing about the applicant's property that would prevent him from constructing a 640 square foot SDU in compliance with the EMC and with a ministerial permit, and there is nothing about the property that would require him to construct an oversized SDU. This means there is no basis in state law or the EMC for the granting of this variance since there are no special circumstances applicable to the property, including size, shape, topography, location or surroundings that would deprive the applicant of privileges enjoyed by other property in the vicinity and under identical zoning classification if the zoning ordinance is strictly applied.

While the Planning Commission and Staff acknowledge that providing housing for disabled veterans is a noble ambition, no evidence has been provided indicating that an accessible unit cannot be created within a 640 square foot SDU.

**Appeal of Variance:** The action of the Planning Commission on a variance can be appealed by the applicant or any other person within 10 days following the date of decision. EMC §155.319 states, "The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission or wherein its decision is not supported by the evidence in the record."

**Analysis:** The Notice of Appeal form filed by the applicant states that he cannot provide information identifying the error or abuse of discretion by the Planning Commission or that their decision was not supported by the evidence in the record. His appeal form also states that the Commission needs more information on ADA requirements and how they fit this project.

The Supplemental Staff report attached as Exhibit C, as well as discussions at the meeting, provided the Planning Commission with information regarding ADA accessibility standards. According to the Building Department, ADA accessibility includes amenities such as grab bars, wider doorways, and maneuvering clearances in kitchens, bedrooms, and bathrooms. Prior to the May, 2011, Planning Commission meeting, Staff asked the Building Department to briefly review the applicant's proposed plan.

The Building Department verbally indicated that a 60 square foot area is large enough for an accessible bathroom where the applicant is proposing a 100 square foot bathroom. The applicant is proposing an 18 foot by 17 foot (306 square foot) bedroom with a 4 foot by 11 foot (44 square foot) closet and a separate 4 foot by 5.5 foot (22 square foot) laundry room. The Building Department commented that a 13 foot by 15 foot (195 square foot) bedroom space would provide the necessary 3

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According to the EMC, floor area is measured exterior wall to exterior wall, so using the Building Department measurements, the bed and bathroom area would total approximately 280 square feet, which would leave approximately 360 square feet for kitchen and living room areas. The applicant is proposing approximately 441 square feet of kitchen and living room space. *[Note: The dimensions have been recalculated, hence the difference between the previous Staff report and this Agenda Summary.]* It seems clear that the applicant is asking for this variance because he wants to provide extra space in the SDU, not because the extra space is required in order to provide an accessible unit. Given the limitations on variances under state law and the EMC, even if the SDU needed to be larger than 640 square feet to be accessible, which it does not, granting that variance would also not be able to be supported.

Lastly, since the appellant did not indicate on what basis the appeal was filed, Staff contends that the appeal has no merit and therefore should not be granted.

Therefore, Staff recommends the City Council hold a public hearing, and after receiving any public testimony, adopt the Findings of Fact in Exhibit A, and uphold the May 9, 2011, action of the Planning Commission. If, however, the Council feels that public testimony warrants granting the requested variance, Staff recommends that the City Council include in their discussion and/or motion appropriate Findings of Fact to support their action.

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**Exhibit "A"**  
**FINDINGS OF FACT**

The decision of the City Council to uphold the Planning Commission action and deny the appeal was made after careful, reasoned and equitable consideration of the evidence in the record, including, but not limited to: written and oral testimony submitted at the public hearing; the staff report; site investigation(s); agency comments; project file; and, the evidence submitted with the permit application.

The findings of fact listed below "bridge the analytical gap" between the raw evidence in the record and the City Council's decision.

1. Pursuant to California Environmental Quality Act (CEQA) guidelines, Statutory Exemption 15720(a), CEQA does not apply to projects which a public agency rejects or disapproves; therefore, no CEQA review is required.

2. The property is an oversized 90 foot by 110 foot, 9900 square foot parcel currently developed with a 1344 square foot single family residence and an existing 546 square foot attached garage.

3. The property is zoned One-Family Residential (RS-6000), and Secondary Dwelling Units are a principally permitted use in the RS-6000 zone district.

4. No adverse impacts were identified, and all other development standards can be met; therefore, granting the variance to allow the SDU to exceed 640 square feet would not negatively impact the public health, safety, or welfare.

5. Other than the fact the lot is oversized, there are no special or peculiar physical characteristics relating to the subject property, and there is nothing extraordinary, special or peculiar about the topography, location or surroundings, and this finding cannot be made.

6. The submitted plans show a Secondary Dwelling Unit can be developed on the property that meets all development standards except by the applicant's choice, the maximum 640 square foot floor area is proposed to be exceeded. Since a larger 913 square foot SDU can be constructed that meets all other development standards, then a Secondary Dwelling Unit meeting the 640 square foot limitation could be developed on the property in full compliance with the development standards of the RS-6000 zone district.

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7. There are no physical circumstances on the property that would preclude development of a 640 square foot Secondary Dwelling Unit. There are also no physical circumstances on the property that would preclude development of an 640 square foot accessible Secondary Dwelling Unit.

8. There is no evidence of financial hardship created by the strict or literal interpretation of the 640 square foot maximum floor area and the community benefit does not rise to the level of a "practical difficulty or an unnecessary physical hardship".

9. There are no exceptional or extraordinary conditions applicable to the property that do not apply to other properties in the RS-6000 zone district. The strict enforcement of the regulations would not deprive the property owner the use of the property for residential purposes, including a Secondary Dwelling Unit, consistent with the RS-6000 zoning regulations.

10. A floor area of 640 square feet or less is adequate to provide an accessible Secondary Dwelling Unit.

11. On May 9, 2011, following a public hearing, the Planning Commission took action to deny the requested variance to exceed the 640 square foot floor area maximum for a Secondary Dwelling Unit.

12. The appellant did not indicate the basis on which the appeal was filed; therefore, the appeal has no merit and should not be granted.

**RESOLUTION NO. 2011-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA ADOPTING THE FINDINGS OF FACT FOR THE ZOOK VARIANCE APPEAL; 1523 EVERDING: APN 012-206-014; APPEAL OF THE PLANNING COMMISSION ACTION TO DENY THE REQUESTED VARIANCE TO EXCEED THE 640 SQUARE FOOT MAXIMUM FLOOR AREA FOR SECONDARY DWELLING UNITS (V-11-0001)**

WHEREAS, the Project Applicant desires to construct a Secondary Dwelling Unit that exceeds the 640 square foot floor area maximum set by the Eureka Municipal Code; and

WHEREAS, the City of Eureka Planning Commission took action to deny the requested variance at their May 9, 2011, meeting; and

WHEREAS, on May 19, 2011, the Project Applicant appealed the action of the Planning Commission to the City Council; and

WHEREAS, on June 21, 2011, the City Council held a public hearing to receive testimony.

NOW THEREFORE, be it resolved by the Council of the City of Eureka that the decision of the City Council to uphold the Planning Commission action and deny the appeal was made after careful, reasoned and equitable consideration of the evidence in the record, including, but not limited to: written and oral testimony submitted at the public hearing; the staff report; site investigation(s); agency comments; project file; and, the evidence submitted with the permit application.

The findings of fact listed below “bridge the analytical gap” between the raw evidence in the record and the City Council’s decision.

1. Pursuant to California Environmental Quality Act (CEQA) guidelines, Statutory Exemption 15720(a), CEQA does not apply to projects which a public agency rejects or disapproves; therefore, no CEAQ review is required.

2. The property is an oversized 90 foot by 110 foot, 9900 square foot parcel currently developed with a 1344 square foot single family residence and an existing 546 square foot attached garage.

3. The property is zoned One-Family Residential (RS-6000), and Secondary Dwelling Units are a principally permitted use in the RS-6000 zone district.

4. No adverse impacts were identified, and all other development standards can be met; therefore, granting the variance to allow the SDU to exceed 640 square feet would not negatively impact the public health, safety, or welfare.



5. Other than the fact the lot is oversized, there are no special or peculiar physical characteristics relating to the subject property, and there is nothing extraordinary, special or peculiar about the topography, location or surroundings, and this finding cannot be made.

6. The submitted plans show a Secondary Dwelling Unit can be developed on the property that meets all development standards except by the applicant's choice, the maximum 640 square foot floor area is proposed to be exceeded. Since a larger 913 square foot SDU can be constructed that meets all other development standards, then a Secondary Dwelling Unit meeting the 640 square foot limitation could be developed on the property in full compliance with the development standards of the RS-6000 zone district.

7. There are no physical circumstances on the property that would preclude development of a 640 square foot Secondary Dwelling Unit. There are also no physical circumstances on the property that would preclude development of a 640 square foot accessible Secondary Dwelling Unit.

8. Although financial hardship should not be a consideration, there is no evidence of financial or physical hardship created by the strict or literal interpretation of the 640 square foot maximum floor area limitation and the community benefit does not rise to the level of a "practical difficulty or an unnecessary physical hardship".

9. There are no exceptional or extraordinary conditions applicable to the property that do not apply to other properties in the RS-6000 zone district. The strict enforcement of the regulations would not deprive the property owner the use of the property for residential purposes, including a Secondary Dwelling Unit, consistent with the RS-6000 zoning regulations.

10. A floor area of 640 square feet or less is adequate to provide an accessible Secondary Dwelling Unit.

11. On May 9, 2011, following a public hearing, the Planning Commission took action to deny the requested variance to exceed the 640 square foot floor area maximum for a Secondary Dwelling Unit.

12. The appellant did not indicate the basis on which the appeal was filed; therefore, the appeal has no merit and should not be granted.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Eureka in the County of Humboldt, State of California, on the 21st day of May, 2011 by the following vote:

AYES: COUNCILMEMBERS

NOES: COUNCILMEMBERS

ABSENT: COUNCILMEMBERS

ABSTAIN: COUNCILMEMBERS

\_\_\_\_\_  
Frank J. Jäger, Mayor of the City of Eureka

*Attest:*

\_\_\_\_\_  
Pamela J. Powell, City Clerk

*Approved as to Administration:*

*Approved as to form:*

\_\_\_\_\_  
David W. Tyson, City Manager

\_\_\_\_\_  
William R. Bragg, Interim City Attorney



City of Eureka, California  
NOTICE OF APPEAL

**RECEIVED**  
MAY 19 2011

- ☒ Planning Commission action  
☐ Historic Preservation Commission action  
☐ Administrative action on Coastal Development Permit

CITY CLERK

This appeal is being filed with the Honorable Mayor and City Council on action taken by the above indicated body at its regular / special meeting held MAY 9, 2011.

The subject of this appeal is:

Applicant: JAME ZOOK

Case No: V-11-0001

Location of property: 1523 EVERDING ST. EUREKA CA. 95503

Said decision was an approval / denial.

Indicate specifically wherein it is claimed there was an error or abuse of discretion by the Commission or Board; or herein its decision is not supported by the evidence in the record (use additional sheets if necessary):

I CANNOT PROVIDE THIS INFORMATION AT THIS TIME. THERE ARE SERIOUS ISSUES INVOLVED AND I NEED TIME TO SEEK COUNSEL AND REVIEW THE PLANNING COMMISSION'S DECISION.

THE COMMISSION NEEDS MORE INFORMATION ON R.D.A. REQUIREMENTS AND HOW THEY FIT THIS PROJECT

**Appellant:**

☒ Applicant

(If more than one, attach list, including addresses) ☐ Interested person

REFUR TO ABOVE STATEMENT

Name: JAMES ZOOK

Signature: \_\_\_\_\_

Address: 1523 EVERDING ST

Date: \_\_\_\_\_

City: EUREKA CA. 95503

Phone: (707) 442-9127

**RECEIVED**

MAY 19 2011

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DEPARTMENT OF

COMMUNITY DEVELOPMENT

Received by: \_\_\_\_\_

Check / Receipt No. \_\_\_\_\_

Date: \_\_\_\_\_

White-Clerk

Canary-Planning

Pink-Bldg.

Blue-Atty.

Goldenrod-Appellant

A



**CITY OF EUREKA  
COMMUNITY DEVELOPMENT DEPARTMENT**

Lisa D. Shikany, Interim Director

531 K Street • Eureka, California 95501-1146

Ph (707) 441-4160 • Fx (707) 441-4202 • [www.ci.eureka.ca.gov](http://www.ci.eureka.ca.gov)

**EUREKA CITY PLANNING COMMISSION**

**SUPPLEMENT TO STAFF REPORT**

May 9, 2011

**Project Title:** *Zook Variance to Exceed Maximum Secondary Dwelling Unit (SDU) Floor Area*

**Project Applicant:** James Zook

**Case No:** V-11-0001

**Project Location:** 1523 Everding; APN No. 012-206-014

**Zoning & General Plan Designations:** One-Family Residential (RS-6000)/Low Density Residential (LDR)

**Project Description:** The applicant is requesting a variance to allow the construction of an approximate 913 square foot Secondary Dwelling Unit (SDU), which exceeds the 640 square foot maximum floor area allowed for an SDU by approximately 273 square feet. The proposed SDU meets all other development standards.

**Staff Contact Person:** Kristen M. Goetz, Assistant Planner; City of Eureka, Community Development Department; 531 "K" Street, Eureka, CA 95501-1165; phone: (707) 441-4166, fax: (707) 441-4202, email: [kgoetz@ci.eureka.ca.gov](mailto:kgoetz@ci.eureka.ca.gov)

**Environmental:** Pursuant to the California Environmental Quality Act (CEQA) guidelines, Statutory Exemptions §15270(a), CEQA does not apply to projects which a public agency rejects or disapproves. Therefore, no CEQA review is required.

**Staff Recommendation and Suggested Motion:** Adopt the **REVISED FINDINGS OF FACT** as described in Exhibit "A" and deny the variance to exceed the maximum floor area for a Secondary Dwelling Unit.

*"I move that the Planning Commission adopt the Revised Findings of Fact listed in Exhibit "A" and that we deny the requested variance to exceed the maximum floor area for a Secondary Dwelling Unit.*

**Background:** This item came before the Planning Commission at their April 18, 2011, rescheduled meeting. Following testimony received during the public hearing, and deliberations by the Commission, the project was tabled to allow the applicant to work with Staff to look at options to reduce the floor area for the proposed Secondary Dwelling Unit.

Additionally, the Commission asked Staff to research whether a 640 square foot accessible Secondary Dwelling Unit was possible.

A post meeting letter was sent to the applicant, asking him to schedule a time to meet with Staff no later than April 28, 2011, to allow time to prepare a supplemental staff report and schedule the project on the May 9 Planning Commission agenda.

**Update:** The applicant did not contact Staff by the deadline, but a letter was left at the department, a copy of which is attached. Also attached are copies of several floor plans obtained by Staff which show accessible dwelling units that are 640 square feet or less.

The floor plans are from facilities located outside of California. Staff provided copies of these floor plans to the Building Department, and asked them to review the plans and determine whether they would meet California accessibility standards. Staff also provided a copy of the applicant's proposed floor plan and asked whether more than 640 square feet of floor area was required to meet the accessibility standards.

The Building Department indicated that although some of the sample floor plans Staff provided were small efficiency units, all the sample floor plans would meet California accessibility standards. Building indicated that a 13 foot by 15 foot (195 square foot) bedroom space would provide 3 foot access aisles on either side of a king size bed, and a closet that is deep enough to include a washer and dryer, where a 2 foot deep closet would suffice without the laundry facilities. According to Building, a 6 foot by 10 foot (60 square foot) area is large enough for an accessible bathroom. For the City of Eureka, floor area is measured exterior wall to exterior wall, so the bedroom and bath exterior measurements would total approximately 270 square feet, which leaves approximately 370 square feet (exterior dimension) available for kitchen and living room space.

Building also indicated that the applicant's proposed floor plan was larger than was required for an accessible unit, and amenities such as the proposed kitchen island, as shown on the proposed floor plan, is not required for an accessible space.

In response the applicant's letter:

1. Public Health, Safety and Welfare

As discussed above, and shown in the sample floor plans provided, accessible Secondary Dwelling Units can be constructed that are 640 square feet or less.

2. Grant of Special Privilege

Again, as discussed above and shown on the sample floor plans, any property owner, including the applicant, could construct a 640 square foot accessible Secondary Dwelling Unit, and would not need to apply for a variance for Floor Area.

The two specific variances that were alluded to at the April 18 meeting that allowed Secondary Dwelling Units to exceed the 640 square foot floor area maximum were for existing portions of structures that had been illegally converted to second units in the past. This applicant is proposing to construct a new Secondary Dwelling Unit where one doesn't exist and be allowed to exceed the 640 square foot floor area

maximum, when it has been demonstrated by the sample floor plans that accessible units can be provided that do not require a variance to exceed the allowable floor area.

3. One of the following:

- a. Practical Difficulty or Unnecessary Hardship  
Pursuant to the sample floor plans, accessible Secondary Dwelling Units can be constructed for wheelchair bound persons.
- b. Exceptional or Extraordinary Circumstances  
The property has all the assets necessary to support a Secondary Dwelling Unit that provides an accessible unit that meets all the development standards, including the 640 square foot maximum floor area limitation.
- c. Strict or Literal Interpretation  
There is no need to allow extra floor area to provide an accessible Secondary Dwelling Unit as evidenced by the sample floor plans.

Lastly, during the April 18, 2011, meeting, the applicant testified that one deficiency in the Staff report was that the report didn't discuss a "wheelchair" accessible unit. Staff confirmed with the Deputy Building Official that an accessible unit is an accessible unit. If a unit is built to meet accessible standards, then potentially any disabled persons can use the unit, wheelchair bound or otherwise.

**Findings of Fact:** Given the discussion above, Staff recommends an additional Finding of Fact be added to the findings provided in the original Staff report:

10. A floor area of 640 square feet or less is adequate to provide an accessible Secondary Dwelling Unit.

**Support Material:**

Exhibit "A"	Revised Findings of Fact .....	pages 4-5
Attachment 1	Post Meeting Letter .....	page 6
Attachment 1	Applicant Letter .....	pages 7-8
Attachment 2	Sample Floor Plans for Accessible Units.....	pages 9-19
Attachment 3	Original Staff Report and Attachments.....	pages 20-31

Kristen M. Goetz  
Assistant Planner

Lisa D. Shikany  
Interim Director of Community Development

May 1, 2011

**Exhibit "A"**  
**REVISED FINDINGS OF FACT**

The decision of the Planning Commission to deny the subject application was made after careful, reasoned and equitable consideration of the evidence in the record, including, but not limited to: written and oral testimony submitted at the public hearing; the staff report; site investigation(s); agency comments; project file; and, the evidence submitted with the permit application.

The findings of fact listed below "bridge the analytical gap" between the raw evidence in the record and the Planning Commission's decision.

1. Pursuant to California Environmental Quality Act (CEQA) guidelines, Statutory Exemption 15720(a), CEQA does not apply to projects which a public agency rejects or disapproves; therefore, no CEQA review is required.
2. The property is an oversized 90 foot by 110 foot, 9900 square foot parcel currently developed with a 1344 square foot single family residence and an existing 546 square foot attached garage.
3. The property is zoned One-Family Residential (RS-6000), and Secondary Dwelling Units are a principally permitted use in the RS-6000 zone district.
4. No adverse impacts were identified, and all other development standards can be met; therefore, granting the variance to allow the SDU to exceed 640 square feet would not negatively impact the public health, safety, or welfare.
5. Other than the fact the lot is oversized, there are no special or peculiar physical characteristics relating to the subject property, and there is nothing extraordinary, special or peculiar about the topography, location or surroundings, and this finding cannot be made.
6. The submitted plans show a Secondary Dwelling Unit can be developed on the property that meets all development standards except by the applicant's choice, the maximum 640 square foot floor area is proposed to be exceeded. Since a larger 913 square foot SDU can be constructed that meets all other development standards, then a Secondary Dwelling Unit meeting the 640 square foot limitation could be developed on the property in full compliance with the development standards of the RS-6000 zone district.
7. There are no physical circumstances on the property that would preclude development of a 640 square foot Secondary Dwelling Unit. There are also no physical circumstances on the property that would preclude development of an 640 square foot accessible Secondary Dwelling Unit.

8. There is no evidence of financial hardship created by the strict or literal interpretation of the 640 square foot maximum floor area and the community benefit does not rise to the level of a “practical difficulty or an unnecessary physical hardship”.

9. There are no exceptional or extraordinary conditions applicable to the property that do not apply to other properties in the RS-6000 zone district. The strict enforcement of the regulations would not deprive the property owner the use of the property for residential purposes, including a Secondary Dwelling Unit, consistent with the RS-6000 zoning regulations.

10. A floor area of 640 square feet or less is adequate to provide an accessible Secondary Dwelling Unit.

End of Exhibit A





**CITY OF EUREKA**  
**COMMUNITY DEVELOPMENT DEPARTMENT**

Lisa D. Shikany, Interim Director

531 K Street • Eureka, California 95501-1146  
Phone (707) 441-4160 • Fax (707) 441-4202  
[planning@ci.eureka.ca.gov](mailto:planning@ci.eureka.ca.gov) • [www.ci.eureka.ca.gov](http://www.ci.eureka.ca.gov)

April 19, 2011

James Zook  
1523 Everding Street  
Eureka, CA. 95501

RE: 1523 Everding Street/APN(s) 012-206-014  
Case No.: V-11-0001

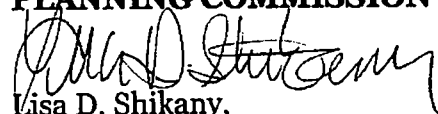
Dear James:

At the regular meeting of the Planning Commission of the City of Eureka, held April 18, 2011, the above matter was reviewed. After due consideration of the submitted application, the Planning Commission took action to table the Variance to allow you time to work with Staff to determine whether the variance is required to exceed the maximum floor area for an accessory (wheelchair or other) Secondary Dwelling Unit.

Please contact Kristen Goetz at 441-4166 to arrange a time to meet no later than Thursday, April 28, 2011. This deadline is needed to be able to get the project back onto the Planning Commission's agenda for their May 9 meeting.

If you have any other questions, please do not hesitate to contact the Community Development Department on the third floor of Eureka City Hall, or at 441-4160.

Sincerely,  
**PLANNING COMMISSION**

  
Lisa D. Shikany,  
Interim Director of Community Development

LDS/dlo

cc: City Manager  
City Clerk  
Council Reads

April 25, 2011

City of Eureka  
Community Development Department  
Lisa D. Shikany, Interim Director

531 K Street  
Eureka, CA 95501-4202

RE: 1523 Everding Street/APN(s) 012-206-014  
Case No.: V-11-0001

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APR 27 2011

DEPARTMENT OF  
COMMUNITY DEVELOPMENT

Dear Lisa D. Shikany:

This letter is my response to the planning commission meeting on April 18<sup>th</sup>, 2011, where the above matter was reviewed (wheel chair accessible secondary dwelling unit in excess of 640 ft maximum allowed). I believe the necessary variance is allowed under current regulations. Please refer to page 2 of the staff report presented at the last meeting.

**Applicable Regulations:** Title 15, Chapter 155, of the Eureka Municipal Code, Section 155.316, Specifies the findings that must be made to grant the variance, they are:

1) That the granting of the variance will not be detrimental to the public health, safety or welfare of materially injurious to properties or improvement in the vicinity; and

**The staff report clearly indicates that there are no other obstacles involved in the granting of this variance other than the need for extra square feet to allow for wheel chair accessibility.**

2) That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district; and

**The granting of this variance does not constitute the granting of special privilege. Any property owner with the same zoning and all other requirements can apply for a variance to allow for a wheel chair accessible secondary dwelling unit. I just happen to be the first one to do so. There have been other properties that have been granted variances for excessive footage.**

3) And one of the following findings:

a) That the strict or literal interpretation and enforcement of the specified regulation would result in a practical difficulty or an unnecessary physical hardship inconsistent with the objectives of this chapter; or

**Limiting floor space to 640 square feet will in fact result in practical difficulty and unnecessary hardship for a wheel chair bound person.**

b) That there are exceptional or extraordinary circumstances or conditions applicable to t

the property involved on the intended use of the property that do not apply generally to other properties classified in the same zoning district; or

**The exceptional or extraordinary conditions applicable to the property involved or the intended use of the property that do not apply to other property classified in the same zoning district is that this property has all the assets that are necessary to support this project and support this variance. A variance should be allowed to be granted on the positive aspect of the property and not just be granted to correct a negative aspect of the property. This is an oversize lot and is a perfect fit for this project.**

c) That the strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.

**The strict and literal interpretation (etc.) would in fact deprive other property owners of their right to develop their property to allow for a wheel chair accessible dwelling unit. Other variances have been granted for extra Square feet. My plan speaks for itself. It is extremely well planned and it meets all conditions required.**

**Closing Remark:**

A.D.A requirements and my plans clearly show the need for extra square feet to allow for wheel chair accessibility. Look what happened with Artic Circle and their inability to comply with A.D.A requirements.

Thank you for your time and consideration.

James Zook

p.s. Please put this project on the agenda for the May 9<sup>th</sup> meeting.

# Columbus Park Plaza

[www.liveatcolumbuspark.com](http://www.liveatcolumbuspark.com)



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## Property Information

### Columbus Park Plaza

801 Pacific St.  
Kansas City, MO 64106  
phone: (816) 472-0887  
fax: (816) 472-6105  
email: [columbus01@kc.rr.com](mailto:columbus01@kc.rr.com)

### Office Hours

<b>Monday</b>	9:00a to 4:00p
<b>Tuesday</b>	9:00a to 4:00p
<b>Wednesday</b>	9:00a to 4:00p
<b>Thursday</b>	9:00a to 4:00p
<b>Friday</b>	9:00a to 4:00p

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## Typical Efficiency Unit-Studio-Handicapped

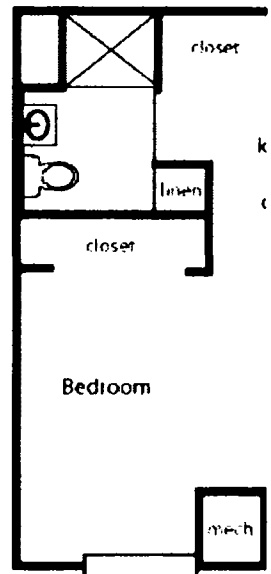
**Rent Range:** \$0.00  
**Unit Type:** 1 Bed/1 Bath  
**Square Feet:** 376 sq. ft.

### Details:

This is a great floorplan!

### Description:

Please check it out!



Floorplan D

[View Enlarged Pl](#)

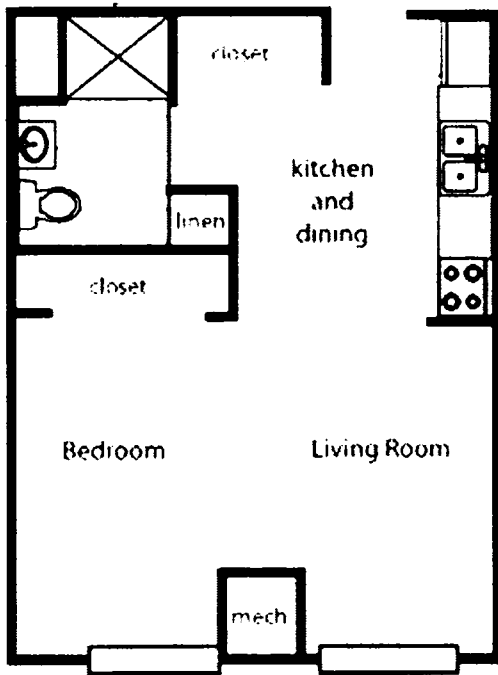
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## Typical One Bedroom Unit-Handicapped

**Rent Range:** \$0.00

**Unit Type:** 1 Bed/1 Bath

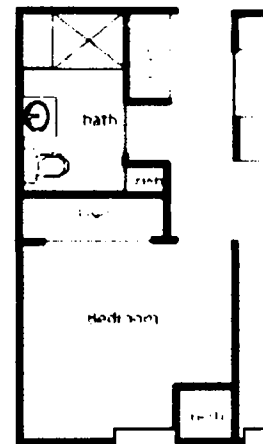
**Square Feet:** 483 sq. ft.

### Details:

This is a great floorplan!

### Description:

Please check it out!



Floorplan Diagram

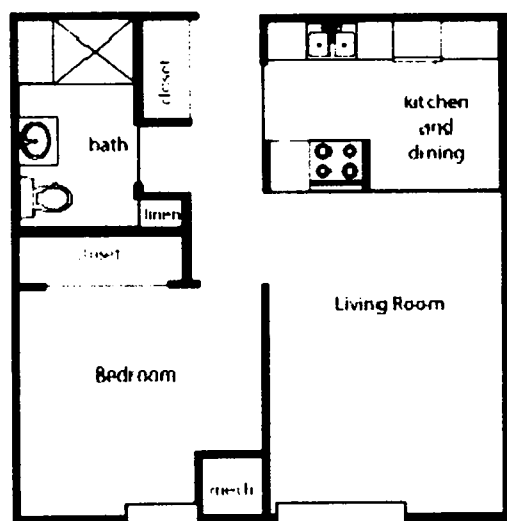
[View Enlarged Plan](#)

[View E-Brochure](#)

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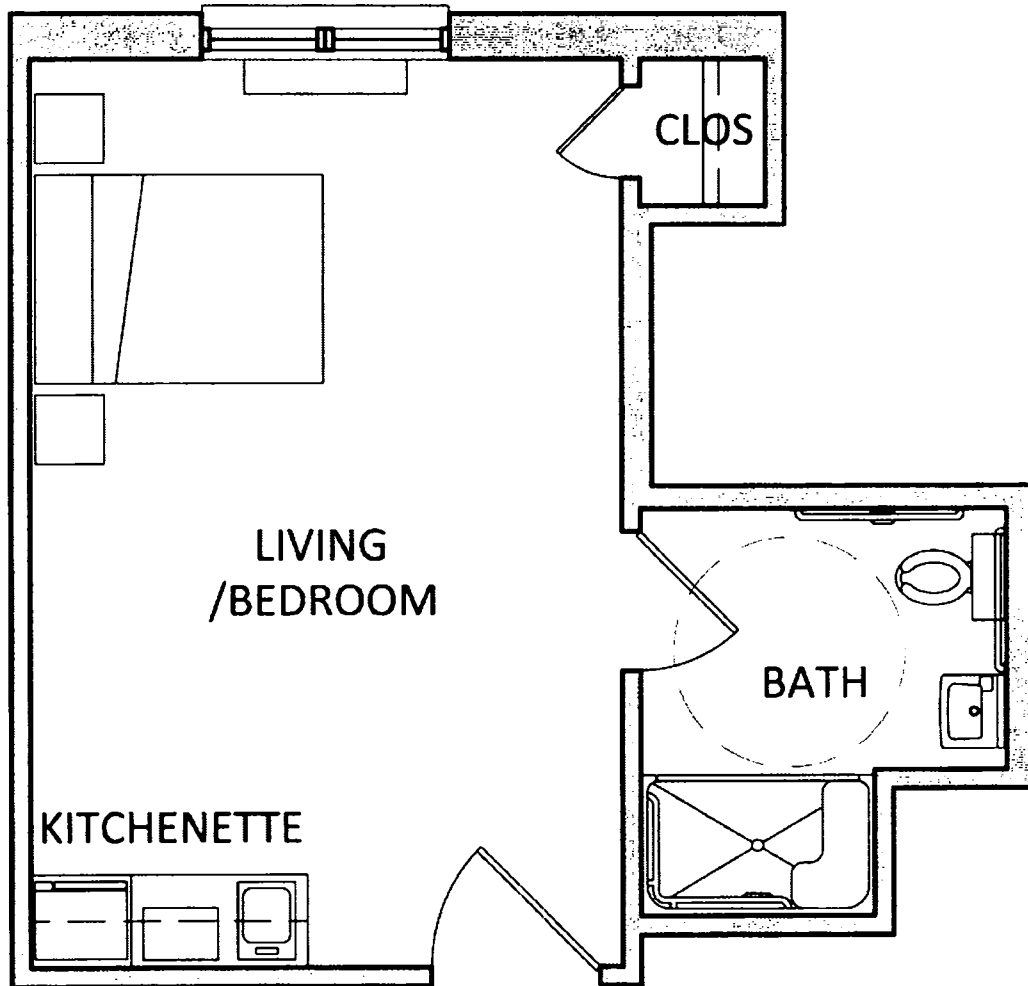
creative design by ellipseinc.com



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## Our Floor Plans (continued)

### Studio Suite



**APPROX. 360 S.F.**

*Prices, plans, dimensions, features, specifications, materials and availability are subject to change without notice or obligation. Copyright 2009 Magnolia Assisted Living, LLC. All rights Reserved.*

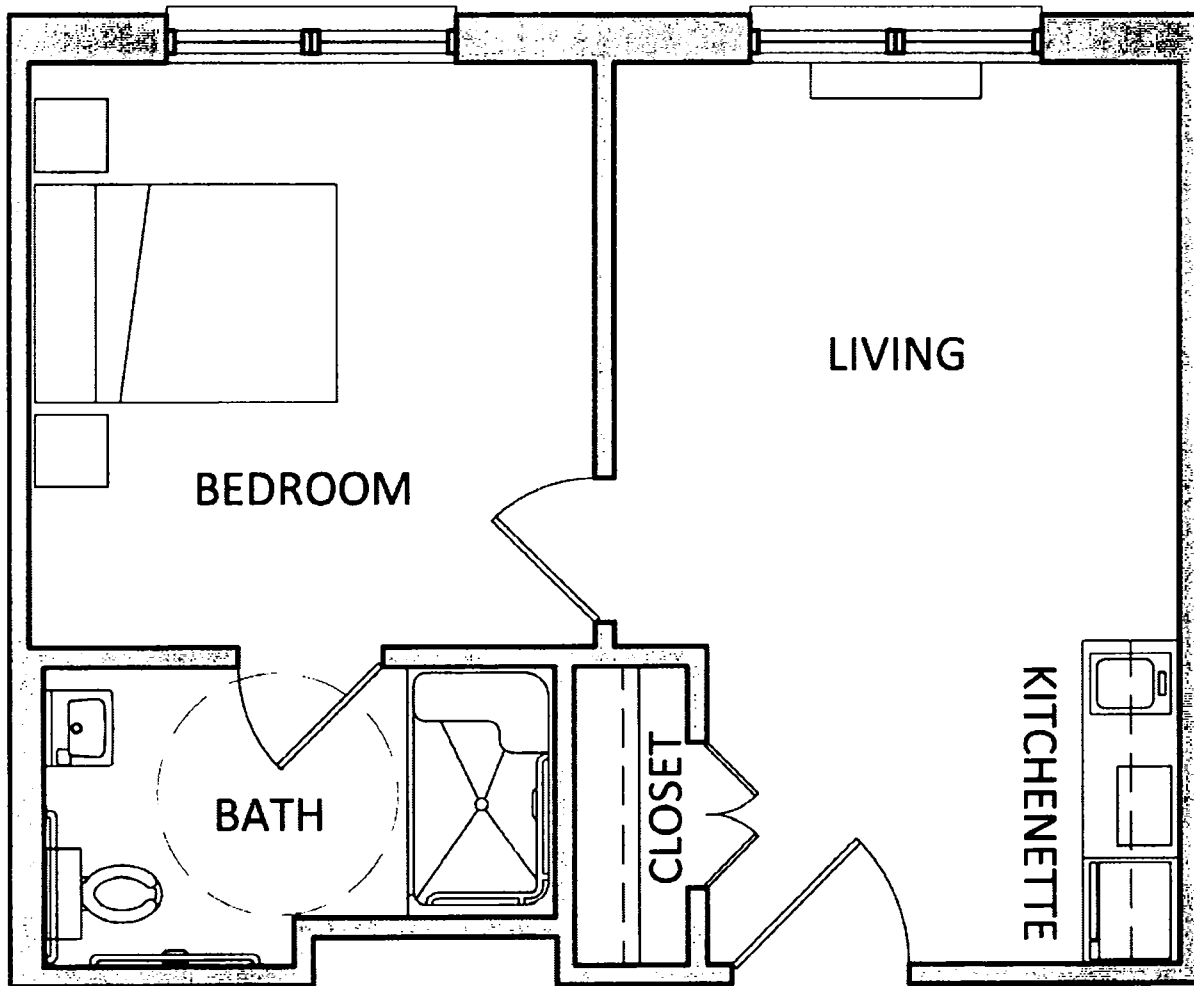




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ASSISTED LIVING  
*Living Green*

## Our Floor Plans

### One-Bedroom Suite



APPROX. 475 S.F.


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### Convenient Location.

Our Gresham, Oregon location is convenient to local shopping malls, restaurants, clinics and professional centers.

: [Click here for a map.](#)

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We would like to know more about you. Please take a moment and fill out our contact form and let us know how we can be of service to you.

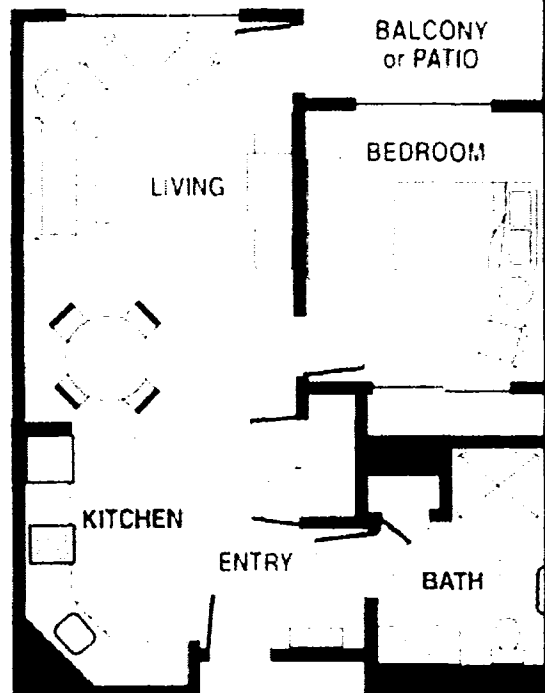
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## Floor Plans : Typical One Bedroom.



Typical One Bedroom

688 - 67 sq ft

At Courtyard Fountains we offer ADA accessible studio, one bedroom and two bedroom apartments, with full kitchens, cable television and an emergency call system. We encourage all our residents to personalize their apartment with their favorite memorabilia and family treasures. Your affordable month-to-month rent includes 24-hour staff, housekeeping, linen services, paid utilities, activities and scheduled transportation. We also offer flexible meal programs and a home health agency office on site.

**If you would like to reserve an apartment today, please contact us.**

**Please choose another floor plan to see layout:**



**Typical Studio**


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### Convenient Location.

Our Gresham, Oregon location is convenient to local shopping malls, restaurants, clinics and professional centers.

: [Click here for a map.](#)

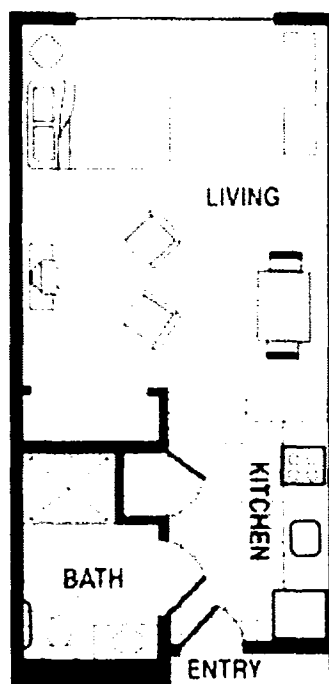
### Tell us about you!

We would like to know more about you. Please take a moment and fill out our contact form and let us know how we can be of service to you.

: [Click here.](#)



Typical Studio  
120 - 448 sq. ft.



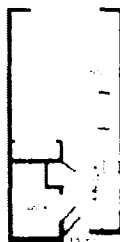
At Courtyard Fountains we offer ADA accessible studio, one bedroom and two bedroom apartments, with full kitchens, cable television and an emergency call system. We encourage all our residents to personalize their apartment with their favorite memorabilia and family treasures. Your affordable month-to-month rent includes 24-hour staff, housekeeping, linen services, paid utilities, activities and scheduled transportation. We also offer flexible meal programs and a home health agency office on site.

**If you would like to reserve an apartment today, please contact us.**

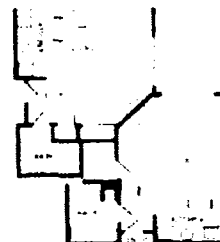


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Courtyard Fountains

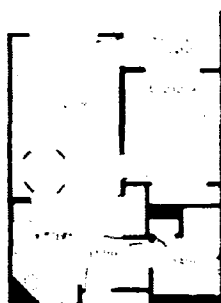
floor plan to see layout:



**Typical Studio**



**Corner Studio**



**Typical Two Bedroom**



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#### Convenient Location.

Our Gresham, Oregon location is convenient to local shopping malls, restaurants, clinics and professional centers.

: [Click here for a map.](#)

#### Tell us about you!

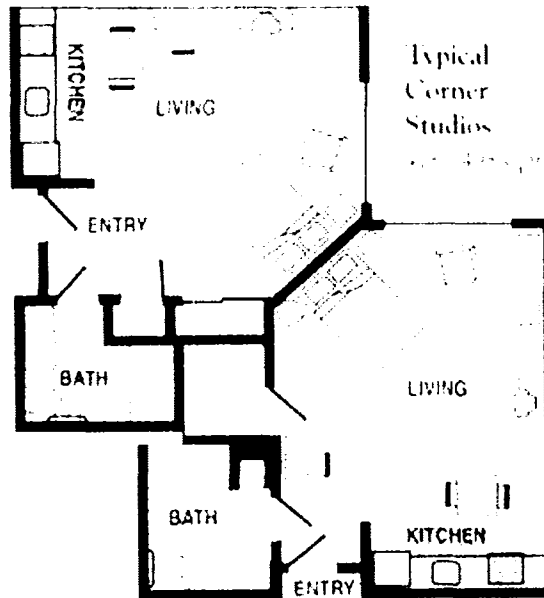
We would like to know more about you. Please take a moment and fill out our contact form and let us know how we can be of service to you.

: [Click here.](#)



**Schedule a tour today! Call 503-667-4500**

### Floor Plans : Typical Corner Studio.



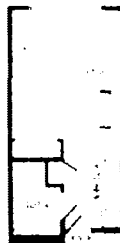
At Courtyard Fountains we offer ADA accessible studio, one bedroom and two bedroom apartments, with full kitchens, cable television and an emergency call system. We encourage all our residents to personalize their apartment with their favorite memorabilia and family treasures. Your affordable month-to-month rent includes 24-hour staff, housekeeping, linen services, paid utilities, activities and scheduled transportation. We also offer flexible meal programs and a home health agency office on site.

**If you would like to reserve an apartment today, please contact us.**

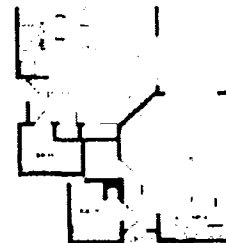


Copyright 2003  
Courtyard Fountains

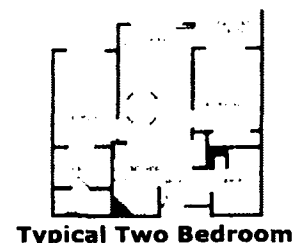
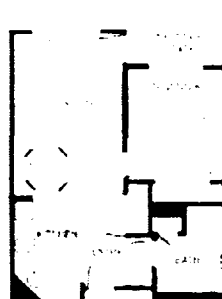
**Please choose another floor plan to see layout:**



**Typical Studio**

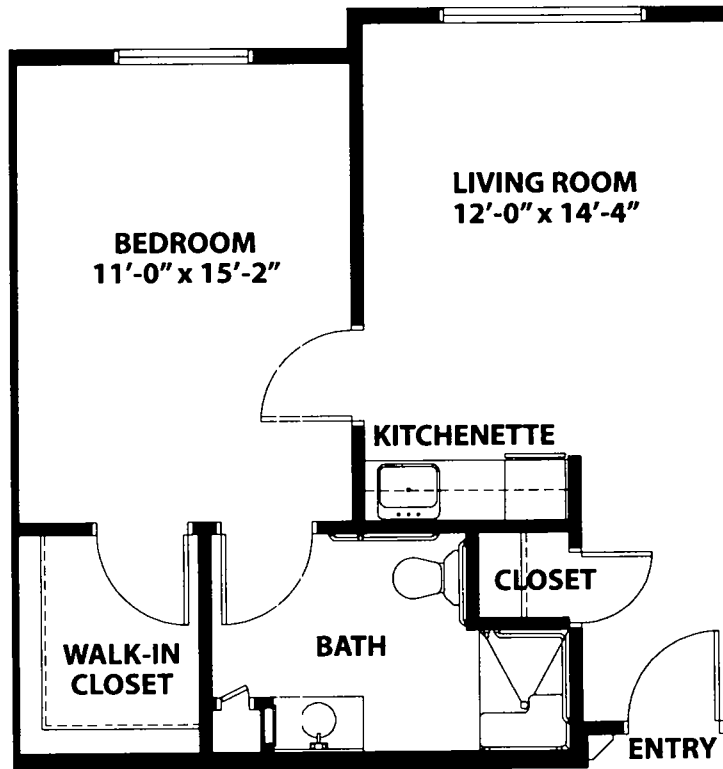


**Corner Studio**



**Typical Two Bedroom**

# LILY



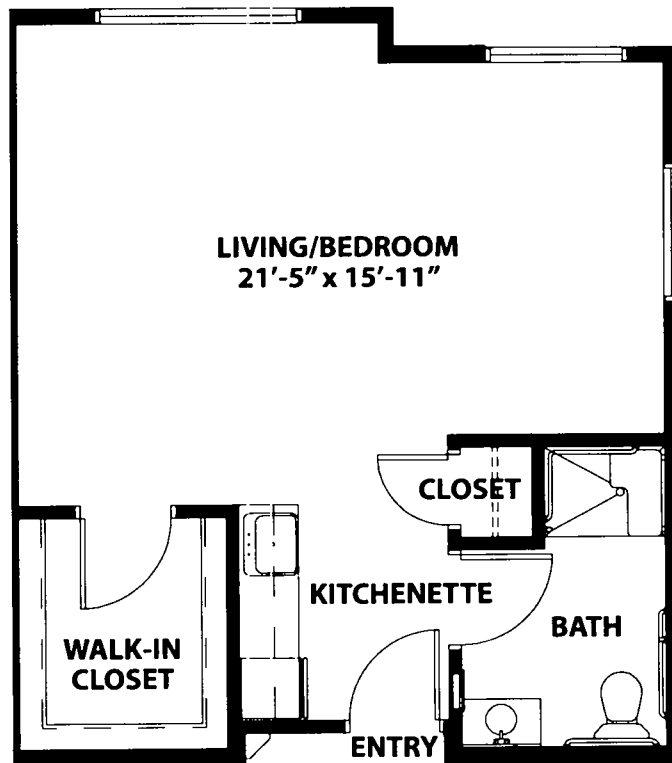
548 square ft.



29

  
**PRIMROSE**  
RETIREMENT COMMUNITIES  
*this is living!*

# IRIS



497 square ft.



Apartment is also available with handicap-accessible shower.

30

  
**PRIMROSE**  
RETIREMENT COMMUNITIES  
*this is living!*



**CITY OF EUREKA  
COMMUNITY DEVELOPMENT DEPARTMENT**

Sidnie L. Olson, AICP, Director

531 K Street • Eureka, California 95501-1146

Ph (707) 441-4160 • Fx (707) 441-4202 • [www.ci.eureka.ca.gov](http://www.ci.eureka.ca.gov)

**EUREKA CITY PLANNING COMMISSION**

**STAFF REPORT**

April 18, 2011

**Project Title:** *Zook Variance to Exceed Maximum Secondary Dwelling Unit (SDU) Floor Area*

**Project Applicant:** James Zook

**Case No:** V-11-0001

**Project Location:** 1523 Everding; APN No. 012-206-014

**Zoning & General Plan Designations:** One-Family Residential (RS-6000)/Low Density Residential (LDR)

**Project Description:** The applicant is requesting a variance to allow the construction of an approximate 913 square foot Secondary Dwelling Unit (SDU), which exceeds the 640 square foot maximum floor area allowed for an SDU by approximately 273 square feet. The proposed SDU meets all other development standards.

**Staff Contact Person:** Kristen M. Goetz, Assistant Planner; City of Eureka, Community Development Department; 531 "K" Street, Eureka, CA 95501-1165; phone: (707) 441-4166, fax: (707) 441-4202, email: [kgoetz@ci.eureka.ca.gov](mailto:kgoetz@ci.eureka.ca.gov)

**Environmental:** According to the California Environmental Quality Act (CEQA), Statutory Exemption 15720(a) states that CEQA does not apply to projects which a public agency rejects or disapproves. Therefore, no CEQA review is required.

**Staff Recommendation and Suggested Motion:** Adopt the **FINDINGS OF FACT** as described in Exhibit "A" and deny the variance to exceed the maximum floor area for a Secondary Dwelling Unit.

*"I move that the Planning Commission adopt the Findings of Fact listed in Exhibit "A" and that we deny the requested variance to exceed the maximum floor area for a Secondary Dwelling Unit.*

**Background:** The subject property is located on the north side of Everding Street between P and Q Streets. The property is an oversized 90 foot by 110 foot, 9900 square foot parcel currently developed with a 1344 square foot single family residence and an existing 546 square foot attached garage. The property is zoned One-Family Residential (RS-6000), and

Secondary Dwelling Units are a principally permitted use in the RS-6000 zone district.

**Applicable Regulations:** Title 15, Chapter 155, of the Eureka Municipal Code, Section 155.316, specifies the findings that must be made to grant the variance, they are:

- 1) That the granting of the variance will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the vicinity; and
- 2) That the granting of the variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district; and
- 3) And one of the following findings:
  - a) That the strict or literal interpretation and enforcement of the specified regulation would result in a practical difficulty or an unnecessary physical hardship inconsistent with the objectives of this chapter; or
  - b) That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties classified in the same zoning district; or
  - c) That the strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.

**Analysis:** The following discussion analyzes the proposed project for each of the required findings listed above. The analysis and recommendations included herein are based upon adopted regulations, current law, case law, sound planning principals, and including site investigations, agency comments, and information submitted with the permit application.

- 1) **Public health, safety, or welfare:** This finding requires a determination of whether the proposed variance to allow the Secondary Dwelling Unit to exceed the maximum 640 square foot floor area limitation would be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity.

The project was referred to departments and agencies with jurisdiction over the project. No comments were received that indicate granting the requested variance would impact public health, safety, and welfare.

All other development standards, such as setbacks and parking can be met by the proposed project. Therefore, since no adverse impacts were identified, and all other development standards are met, Staff finds that granting the variance to allow the SDU to exceed 640 square feet would not negatively impact the public health, safety, or welfare, and this finding can be made.



2) **Grant of special privilege:** Variances should be limited to those situations where the peculiar physical characteristics of a site, including size, shape, topography, location or surroundings, make it difficult or impossible to develop using standard regulations in compliance with the Code. A variance is granted in order to bring the disadvantaged property up to the level of use enjoyed by properties in the same zone. For instance, where the steep rear portion of a residential lot makes the site otherwise undevelopable, a variance might be approved to reduce the front yard setback and thereby create sufficient room for a home on the lot. There is no basis for granting a variance if the circumstances of the project site cannot be distinguished from those on surrounding lots. For example, all things being equal, in a subdivision where lots are uniformly 40 feet wide, there is no basis for allowing one lot to be developed with reduced side yard setbacks; granting such a variance would be a grant of special privilege.

Approval or denial of a variance does not create a precedent for subsequent variance requests; because each variance is based upon special circumstances relating to the site for which it is proposed, the past granting or denial of variances for other properties in the area does not mandate similar action on the part of the hearing body (*Miller v. Board of Supervisors of Santa Barbara County* (1981) 122 Cal.App.3d 539). Nearby ordinance violations, prior variances or lack of objections from neighbors do not provide a basis for granting a variance.

The subject property is an oversized interior lot, that is 3600 square feet larger than a standard interior lot. Other than the fact the lot is oversized, there are no special or peculiar physical characteristics relating to the subject property. There is nothing extraordinary, special or peculiar about the topography, location or surroundings. Therefore, one must ask - are there any physical characteristics that prevent development of the property in compliance with the Code? Is a variance necessary to bring the subject property up to the level of use enjoyed by properties in the same zone?

The plans submitted by the applicant show that a Secondary Dwelling Unit can be developed on the property that meets all development standards except the applicant choose to exceed the 640 square foot maximum floor area. There is therefore, no doubt that a Secondary Dwelling Unit meeting the 640 square foot limitation could be developed on the property in full compliance with the development standards of the RS-6000 zone district. Logically then, a variance is not necessary to bring the subject property up to the level of use enjoyed by properties in the same zone. As a result, Staff contends that granting the variance would be a grant of special privilege.

3. **Strict or Literal Interpretation/Exceptional or Extraordinary Circumstance:** A finding must be made in order to grant the requested variances that determines whether (a) the strict or literal interpretation and enforcement of the specified regulation would result in a practical difficulty or an unnecessary physical hardship inconsistent with the objectives of this chapter; or (b) that there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to other properties classified in the same zoning district; or (c) that the strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of

other properties classified in the same zoning district.

The enforcement of the regulations would require the applicant to comply with the 640 square foot floor area limitation contained in the Secondary Dwelling Unit Ordinance. The applicant has not provided any compelling reason for the need to exceed the floor area, except that he wants to create an accessible unit to rent to disabled veterans. While Staff acknowledges that providing housing for disabled veterans is a noble ambition, no evidence has been provided indicating that an accessible unit cannot be created within a 640 square foot SDU.

Additionally, consideration of a variance should be limited to the physical circumstances of the property; "the standard of hardship with regard to applications for variances relates to the property, not to the person who owns it" (California Zoning Practice, Hagman, et al.), or in this case, the person who may utilize the SDU. Financial hardship, community benefit, or the worthiness of the project should not be considerations in determining whether to approve a variance (Orinda Association v. Board of Supervisors (1986) 182 Cal.App.3d 1145). As *California Zoning Practice* succinctly explains, "[t]he test of bringing property to parity is based on equality of the property rather than equality of the owners."

There are no physical circumstances on the property that would not allow development of a Secondary Dwelling Unit. There are also no physical circumstances on the property that would disallow an accessible Secondary Dwelling Unit. Requiring strict adherence to the Code and not granting the variance would still allow a SDU to be provided. Therefore, there appears to be no financial hardship created by the strict or literal interpretation of the 640 square foot maximum floor area and the community benefit does not rise to the level of a "practical difficulty or an unnecessary physical hardship" as required for finding (a). Therefore, Staff finds that finding (a) cannot be made.

As discussed above, there are no exceptional or extraordinary conditions applicable to the property that do not apply to other properties in the RS-6000 zone district. And as discussed above, the strict enforcement of the regulations would not deprive the property owner the use of the property for residential purposes, including a Secondary Dwelling Unit, consistent with the RS-6000 zoning regulations. Therefore, neither finding (b) or (c) can be made.

**Support Material:**

Exhibit "A"	Findings of Fact .....	pages 5-6
Exhibit "B"	Vicinity Maps .....	pages 7-8
Attachment 1:	Applicant Submitted Materials .....	pages 9-12

Kristen M. Goetz  
Assistant Planner

Sidnie L. Olson, AICP  
Director of Community Development

February 15, 2011

## **Exhibit “A”**

### **FINDINGS OF FACT**

The decision of the Planning Commission to deny the subject application was made after careful, reasoned and equitable consideration of the evidence in the record, including, but not limited to: written and oral testimony submitted at the public hearing; the staff report; site investigation(s); agency comments; project file; and, the evidence submitted with the permit application.

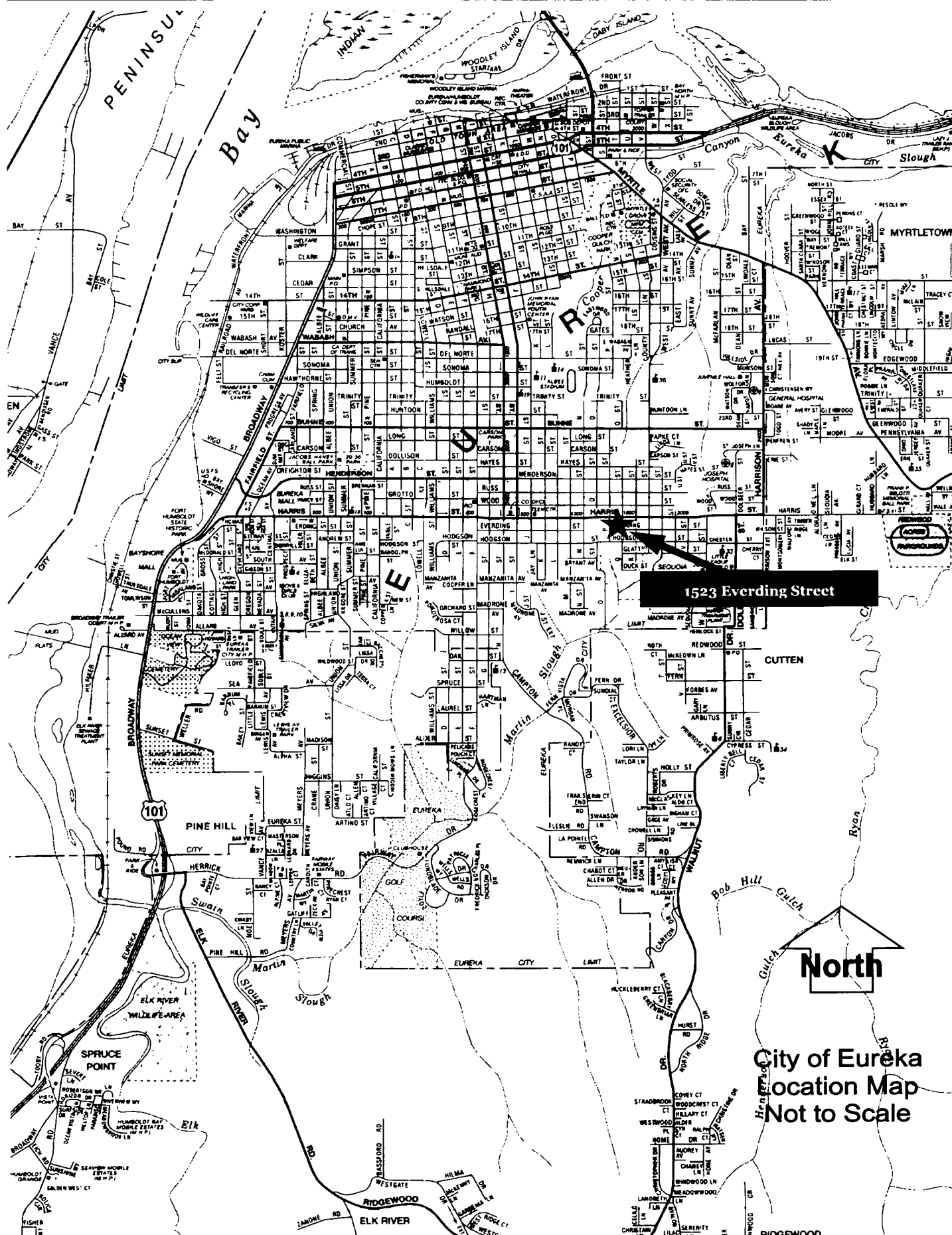
The findings of fact listed below “bridge the analytical gap” between the raw evidence in the record and the Planning Commission’s decision.

1. Pursuant to California Environmental Quality Act (CEQA), Statutory Exemption 15720(a) CEQA does not apply to projects which a public agency rejects or disapproves; therefore, no CEQA review is required.
2. The property is an oversized 90 foot by 110 foot, 9900 square foot parcel currently developed with a 1344 square foot single family residence and an existing 546 square foot attached garage.
3. The property is zoned One-Family Residential (RS-6000), and Secondary Dwelling Units are a principally permitted use in the RS-6000 zone district.
4. No adverse impacts were identified, and all other development standards can be met; therefore, granting the variance to allow the SDU to exceed 640 square feet would not negatively impact the public health, safety, or welfare.
5. Other than the fact the lot is oversized, there are no special or peculiar physical characteristics relating to the subject property, and there is nothing extraordinary, special or peculiar about the topography, location or surroundings, and this finding cannot be made.
6. The submitted plans show a Secondary Dwelling Unit can be developed on the property that meets all development standards except by the applicant’s choice, the maximum 640 square foot floor area is proposed to be exceeded. Since a larger 913 square foot SDU can be constructed that meets all other development standards, then a Secondary Dwelling Unit meeting the 640 square foot limitation could be developed on the property in full compliance with the development standards of the RS-6000 zone district.
7. There are no physical circumstances on the property that would preclude development of a 640 square foot Secondary Dwelling Unit. There are also no physical circumstances on the property that would preclude development of an 640 square foot accessible Secondary Dwelling Unit.

8. There appears to be no financial hardship created by the strict or literal interpretation of the 640 square foot maximum floor area and the community benefit does not rise to the level of a “practical difficulty or an unnecessary physical hardship”.

9. There are no exceptional or extraordinary conditions applicable to the property that do not apply to other properties in the RS-6000 zone district. The strict enforcement of the regulations would not deprive the property owner the use of the property for residential purposes, including a Secondary Dwelling Unit, consistent with the RS-6000 zoning regulations.

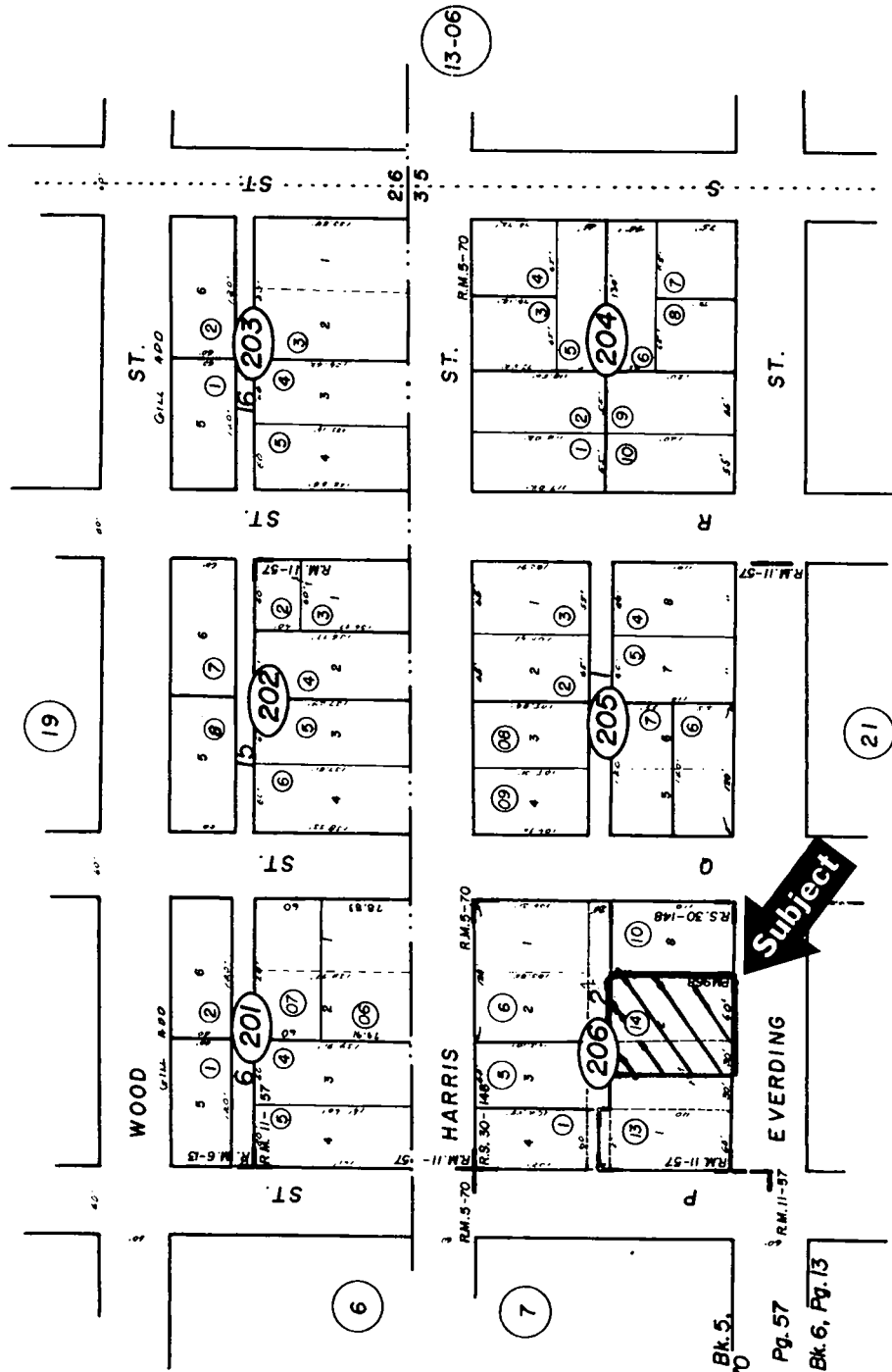
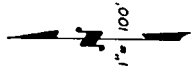
End of Exhibit A



1523 Everding Street

North

City of Eureka  
Location Map  
Not to Scale



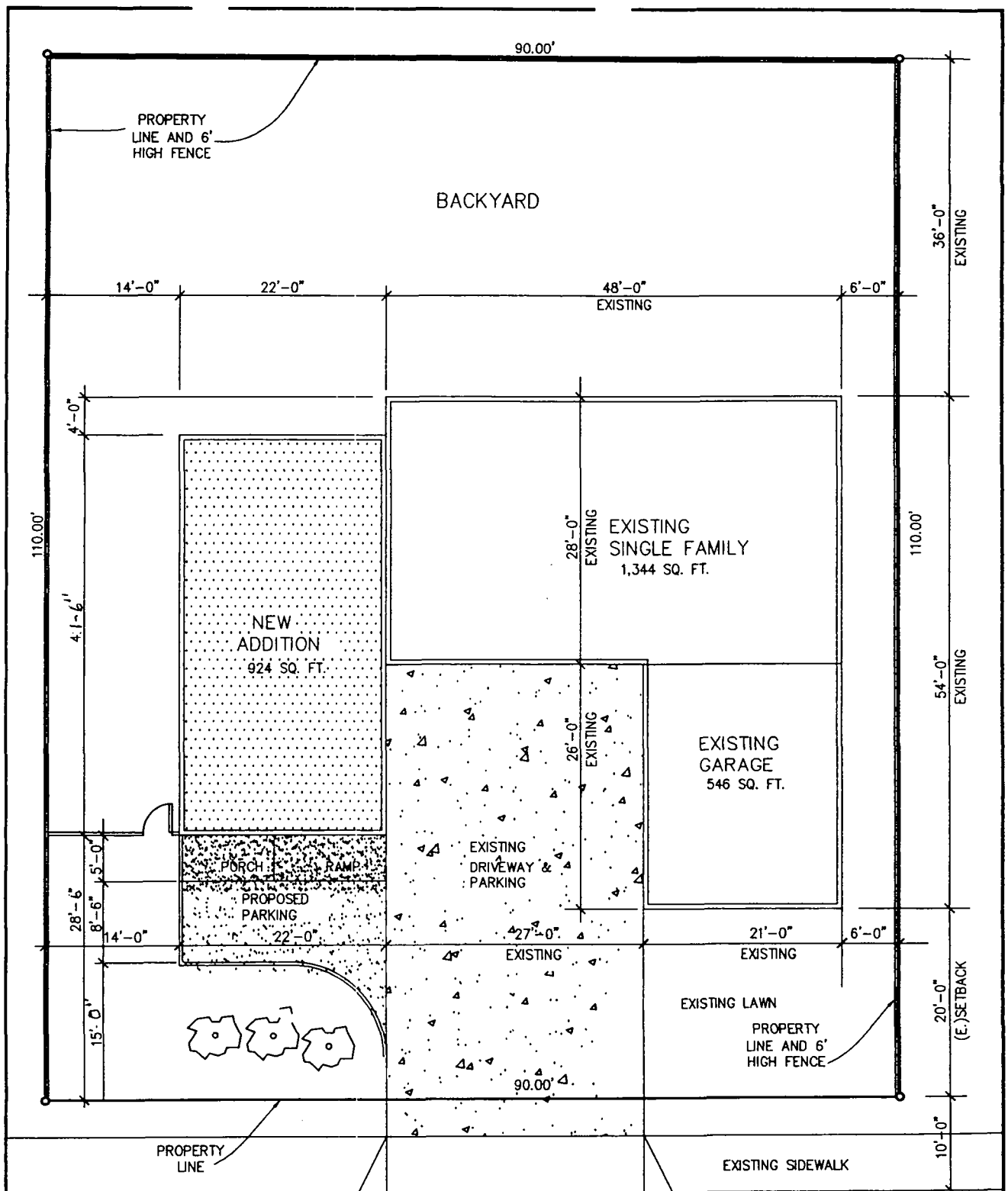
R.S. Bk. 30, Pg. 148

Por. Amd. Plat Gill Addn., R.M. Bk. 5, Pg. 70

Por. Park View Tr., R.M. Bk. 11, Pg. 57

Por. Amd. Plat Gill Addn. R.M. Bk. 6, Pg. 13

PM.No. 968 of PM.Bk. 8, Pg. 106



#### SITE:

EXISTING SITE AREA: = 9,900 SQ. FT.

TOTAL BUILDING COVERAGE: = 2,855 SQ. FT.  
 (9,900 SQ. FT. - 2,855 SQ. FT. = 7,045 SQ. FT. OR .29%  
 TOTAL BUILDING COVERAGE OF SITE)

TOTAL DRIVEWAY COVERAGE: = 1,461 SQ. FT.  
 (9,900 SQ. FT. - 1,461 SQ. FT. = 8,439 SQ. FT. OR .15%  
 TOTAL DRIVEWAY COVERAGE OF SITE)

#### PROJECT DESCRIPTION:

WHEEL CHAIR ACCESSIBLE SECONDARY DWELLING UNIT IN  
 EXCESS OF 640 SQ. FT. LIMIT.

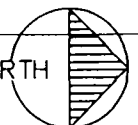
#### EVERDING STREET

**SITE PLAN**  
**RECEIVED**

JAN 27 2011

DEPARTMENT OF  
 COMMUNITY DEVELOPMENT

SCALE: 1" = 10'-0" NORTH



SECONDARY DWELLING UNIT ADDITION TO:  
**THE JAMES ZOOK RESIDENCE**

1523 EVERDING STREET  
 EUREKA, CALIFORNIA  
 A.P. NO. 012-206-000

Date: 11/20/10

Sheet

**A1**

1 Of 4 Sheets

RECEIVED

JAN 07 2011  
DEPARTMENT OF  
COMMUNITY DEVELOPMENT

**BUILDING:**

OCCUPANCY CLASS: GROUP R-1  
TYPE OF CONSTRUCTION: TYPE V-N (ONE STORY)  
WOOD FRAME

**EXISTING BUILDING AREA:**

EXISTING RESIDENCE: = 1,344 SQ. FT.  
EXISTING GARAGE: = 547 SQ. FT.  
TOTAL = 1,891 SQ. FT.

EXISTING DRIVEWAY: = 1,241 SQ. FT.

**NEW BUILDING AREA:**

NEW ADDITION: = 924 SQ. FT.  
NEW DRIVEWAY/ PARKING: = 264 SQ. FT.

BUILDING HEIGHT: = 9'-0" - 14'-0"

Dimensions and sq ft have changed  
see site plan

**FLOOR PLAN**

NORTH

SCALE: 3/8" = 1'-0"

SECONDARY DWELLING UNIT ADDITION TO:  
**THE JAMES ZOOK RESIDENCE**

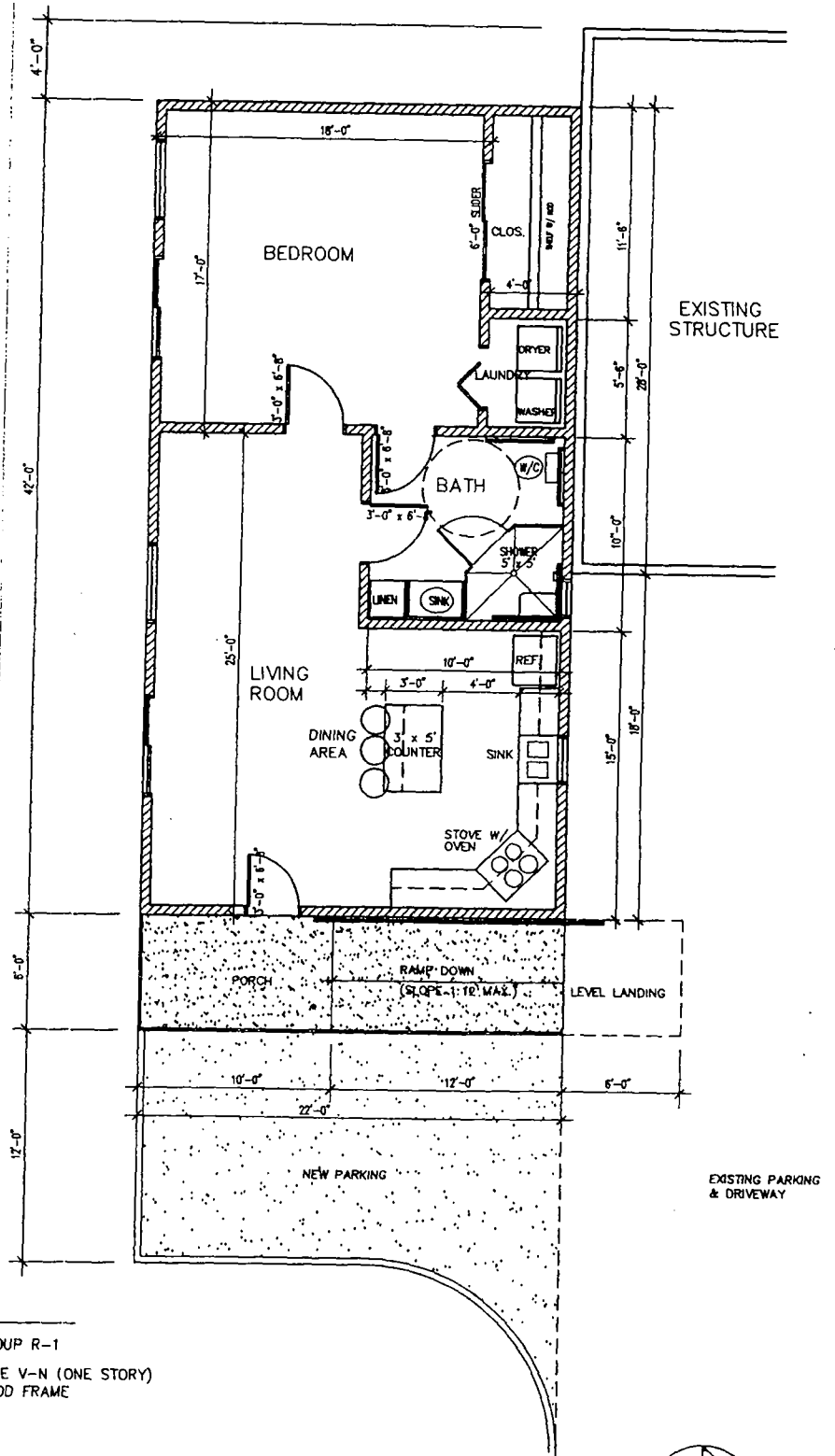
1523 EVERDING STREET  
ELIOT, CALIFORNIA  
A. 40 2-206-000

Date: 11/20/10

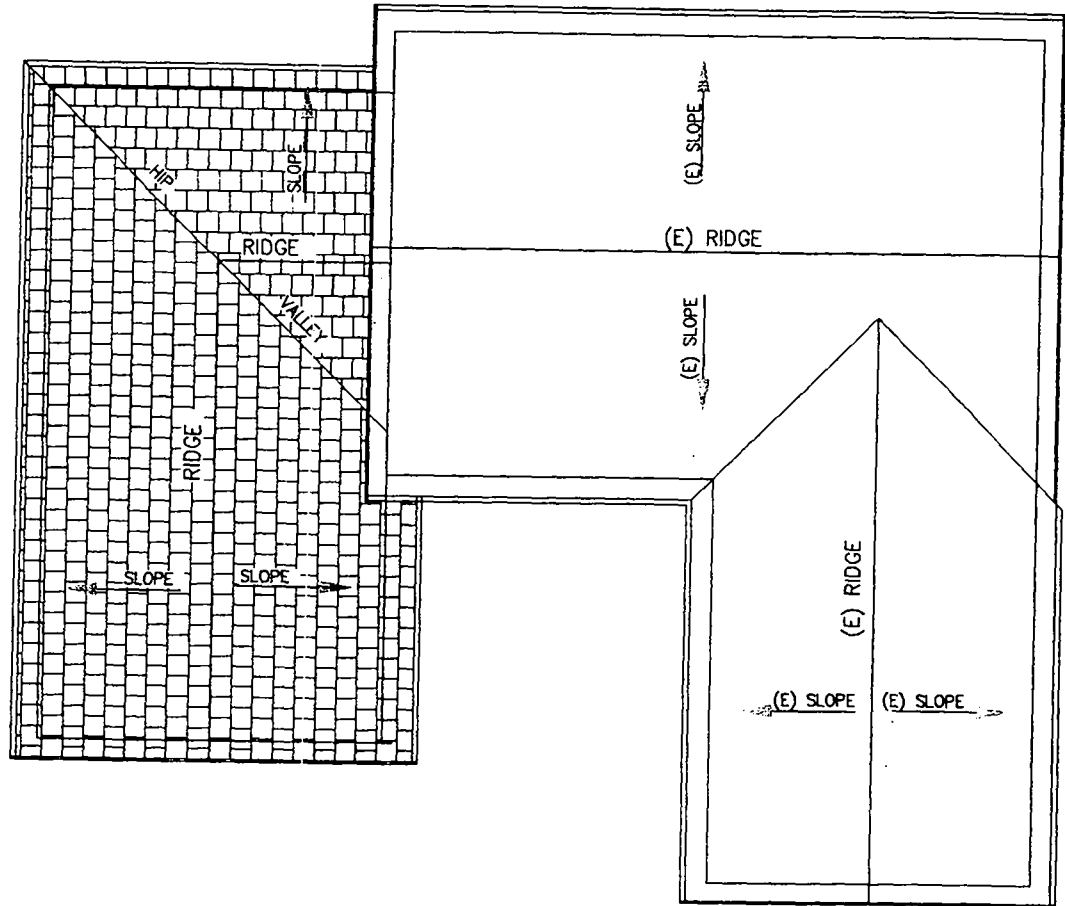
Sheet

A2

2 Of 4 Sheets

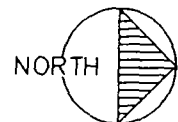






# **ROOF PLAN**

SCALE: 1/8" = 1'-0"



**RECEIVED**

JAN 07 2011  
DEPARTMENT OF  
COMMUNITY DEVELOPMENT

SECONDARY DWELLING UNIT ADDITION TO:  
**THE JAMES ZOOK RESIDENCE**

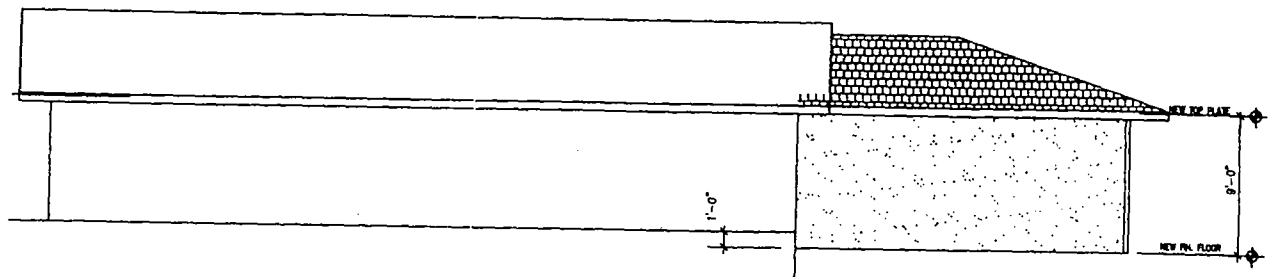
1523 EVERDING STREET  
EUREKA, CALIFORNIA  
A.P. NO. 012-206-000

Date: 11/20/10

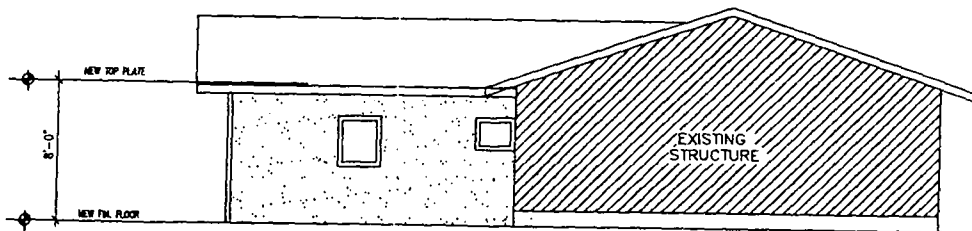
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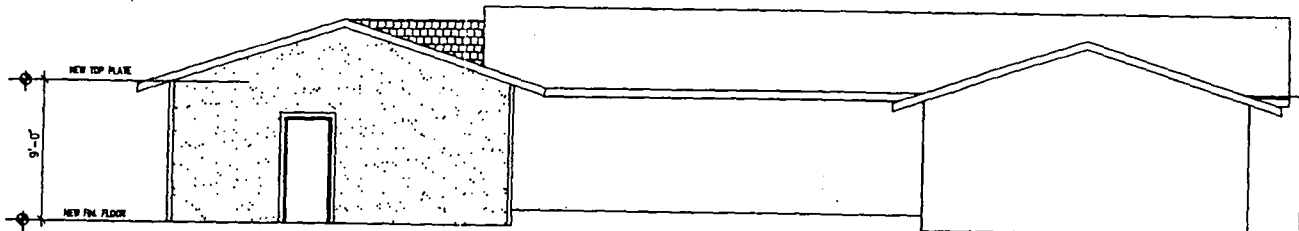
3 Of 4 Sheets



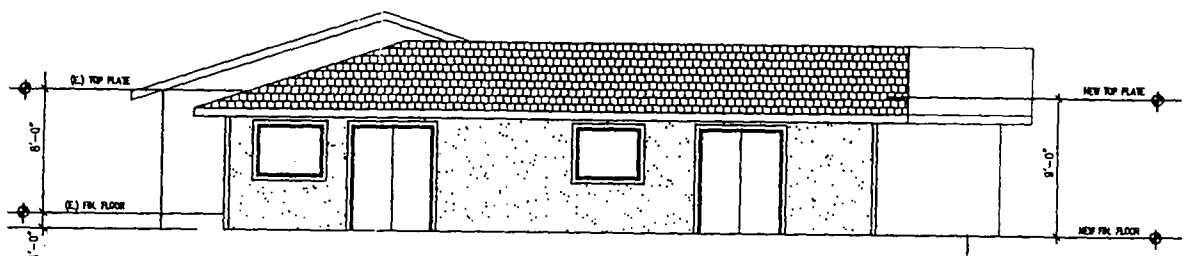
NORTH BACK ELEVATION



EAST SIDE ELEVATION



SOUTH FRONT ELEVATION



WEST SIDE ELEVATION

RECEIVED  
JAN 07 2011  
DEPARTMENT OF  
COMMUNITY DEVELOPMENT

SCALE: 1/8" = 1'-0"

SECONDARY DWELLING UNIT ADDITION TO:  
**THE JAMES ZOOK RESIDENCE**

1523 EVERDING STREET  
EUREKA, CALIFORNIA  
A.P. NO. 012-206-000

Date: 11/20/10

Sheet

A4  
4 Of 4 Sheets

**AGENDA SUMMARY**

**RE: VACATE THAT EASEMENT  
RESERVED BY ORDINANCE NO. 2709  
LOCATED BETWEEN WABASH AVENUE AND  
DEL NORTE STREET FROM SHORT STREET  
TO KOSTER STREET**

**FOR AGENDA DATE: JUNE 21, 2011**

**AGENDA ITEM NO.:**

2

**RECOMMENDATION:**

- 1) Council hold a Public Hearing;
- 2) Council determine the Easement to be surplus;
- 3) Council determine that vacating the Easements will have a cost-neutral or positive financial benefit to the City;
- 4) Council Order the Vacation of the Easement by adopting Resolution No. 2011-  
"Resolution of the Council of the City of Eureka ordering the Vacation of that Easement reserved by Ordinance No. 2709 located between Wabash Avenue and Del Norte Street from Short Street to Koster Street".

**SUMMARY:**

In August 1957 the Eureka City Council vacated an alley running east and west through the center of Block 13 from the East line of Short Street to the West line of Koster Street in Clark's South Park Addition to the City of Eureka.

The Council vacated, closed up and abandoned said alley, "Reserving, however, to the City of Eureka a right of way for all city owned utilities and for drainage purposes".

The underlying fee owners of the easement have requested the easement be vacated to allow development of their property.

*Continued page 2*

**FISCAL IMPACT:**

None.

**DEPARTMENT HEAD SIGNATURE:**


Kurt E. Gierlich  
City Engineer

**CITY MANAGER SIGNATURE:**


David W. Tyson  
City Manager

**REVIEWED BY:**

City Attorney  
Community Development  
Public Works

**DATE:**

6-10-11  
6-9-11

**INITIALS:**

LS  
BY

**Council Action:**

Ordinance No. \_\_\_\_\_

Resolution No. \_\_\_\_\_

**RE: RE: VACATE THAT EASEMENT  
RESERVED BY ORDINANCE NO. 2709  
LOCATED BETWEEN WABASH AVENUE AND  
DEL NORTE STREET FROM SHORT STREET  
TO KOSTER STREET**

**FOR AGENDA DATE: JUNE 21, 2011**  
**AGENDA ITEM No.:**  
*Page 2*

**SUMMARY** *(continued)*

Engineering files do not show any utilities within said reserved right of way.

Staff sent out referrals to City departments on May 10, 2011 with request for comments by June 3, 2011. Two submittals were received back with no comments offered. No other submittals were received.

The easement is no longer of any use to the City of Eureka and should be vacated allowing use by the underlying fee owners.

Staff therefore recommends:

- 1) Council hold a Public Hearing;
- 2) Council determine the Easement to be surplus;
- 3) Council determine that vacating the Easement will have a cost-neutral or positive financial benefit to the City;
- 4) Council Order the Vacation of the Easement by adopting Resolution No. 2011- "Resolution of the Council of the City of Eureka ordering the Vacation of that Easement reserved by Ordinance No. 2709 located between Wabash Avenue and Del Norte Street from Short Street to Koster Street".

  
Gary D. Boughton, Deputy City Engineer

**Attachments:**

- Exhibit "A" Ordinance No. 2709
- Exhibit "B" Assessor's Parcel Map No. 3-17
- Exhibit "C" Portion of Sewer Map No. 37
- Exhibit "D" Resolution No. 2011-

# EXHIBIT "A"

ORDINANCE NO. 2769

ORDINANCE VACATING, CLOSING UP AND ABANDONING

A CERTAIN ALLEY IN THE CITY OF EUREKA, to wit:

An alley running east and west  
through the center of Block 13  
from the East line of Short  
Street to the West line of  
Koster Street in Clark's South  
Park Addition to the City of  
Eureka.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF EUREKA, as follows:

SECTION 1: That public necessity, interest and convenience require that an alley in the City of Eureka as hereinabove and hereinafter described, be vacated, closed up and abandoned, RESERVING, however, to the City of Eureka a right of way for all city owned utilities and for drainage purposes. Said alley so vacated, closed up and abandoned by this ordinance is described as follows:

An alley running east and west  
through the center of Block 13  
from the East line of Short  
Street to the West line of  
Koster Street in Clark's South  
Park Addition to the City of  
Eureka.

SECTION 2: The Council of the City of Eureka passed its Resolution of Intention No. 4722 to vacate, close up and abandon said alley setting forth its reasons for public necessity, interest and convenience, and duly fixed the date of hearing thereon for July 18th, 1957. And due notice of such hearing was given by posting and publication as required by law.

SECTION 3: Said hearing was held on said 18th day of July, 1957, as noticed and as required by law; that at said hearing no protest was filed or given, and no good reason having been given or shown that public necessity, interest and convenience do not demand the vacating, closing up

and abandoning of said alley, the same should therefore be vacated, closed up and abandoned, RESERVING, however, to the City of Eureka a right of way for all city owned utilities and for drainage purposes; and it is as hereinabove described hereby vacated, closed up and abandoned for public necessity, interest and convenience.

SECTION 4: This ordinance shall be published once in the Humboldt Times, a newspaper of general circulation, published and printed in the City of Eureka, and shall take effect and be in force thirty (30) days after its approval by the Mayor.

ADOPTED: This 6th day of August, 1957.

*Orvil Wilson*  
PRESIDENT OF THE COUNCIL.

SUBMITTED to the Mayor this 13th day of August, 1957.

APPROVED by the Mayor this 14th day of August, 1957.

*Oscar Swarlund*  
MAYOR OF THE CITY OF EUREKA.

ATTEST: *Ruby Shanahan*  
CITY CLERK OF THE CITY OF EUREKA

13350  
RECORDED AT REQUEST OF  
CITY OF EUREKA  
VOL. 158 OFFICIAL RECORDS PG. 271

SEP 5 3 52 PM 1957

HUMBOLDT COUNTY RECORDS  
EMMA COX ALCALA, RECORDER  
*Maury* DEPUTY  
FEE \$ none

*Ruby Shanahan*  
Eureka, Calif.







# EXHIBIT “D”

Recorded for the benefit of  
the City of Eureka  
pursuant to CGC 27383

after recording return to:

City of Eureka  
City Clerk  
531 “K” Street  
Eureka, CA 95501

## Resolution No. 2011-

### **Resolution of the Council of the City of Eureka ordering the Vacation of that Easement reserved by Ordinance No. 2709 located between Wabash Avenue and Del Norte Street from Short Street to Koster Street**

**WHEREAS**, the City Council of the City of Eureka held a public hearing on June 21, 2011, at 6:30 p.m. in the Council Chamber, City Hall, 531 “K” Street, Eureka, California; and

**WHEREAS**, from all evidence submitted, the City Council of the City of Eureka finds the easement to be surplus; and

**WHEREAS**, from all evidence submitted, the City Council of the City of Eureka finds the vacation of the easements will have a cost-neutral or positive financial benefit to the City; and

**NOW THEREFORE, BE IT RESOLVED** by the City Council of the City of Eureka, as follows:

Section 1. That said easement, located between Wabash Avenue and Del Norte Street from Short Street to Koster Street, is unnecessary for present or prospective use and the same is hereby vacated with no reservations.

Section 2. The City Clerk is directed to record a copy of this Resolution currently with the new Easement.

**Resolution No. 2011-**

**PASSED, APPROVED AND ADOPTED** by the City Council of the City of Eureka, County of Humboldt, State of California, on the twenty-first day of June 2011, by the following vote:

AYES:	COUNCIL MEMBERS:	None
NOES:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None

---

Frank Jäger  
Mayor

Approved as to Administration:

---

David W. Tyson  
City Manager

Attest:

---

Pamela J. Powell  
City Clerk

Approved as to Form:

---

William R. Bragg  
City Attorney

4

MINUTES OF  
EUREKA CITY COUNCIL  
EUREKA REDEVELOPMENT AGENCY

May 17, 2011

The City Council/Redevelopment Agency of the City of Eureka met in REGULAR Session on the above date, 5:00 P.M. Closed Session, 6:00 P.M. Open Session, at the Eureka City Hall, Council Chambers, 531 "K" Street, Eureka.

PRESIDING: MAYOR JÄGER

PRESENT: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN

ABSENT: NONE

MINUTES PREPARED BY:

COUNCIL APPROVAL ACKNOWLEDGED:



PAMELA J. HOWELL  
City Clerk

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FRANK JÄGER  
Mayor

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Public comment prior to closed session


ACTION:

No one expressed an interest in addressing the Council at this time.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 27, 2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item A

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Closed session

ACTION:

Council met in closed session to discuss the following matters:

Conference with labor negotiators

Agency designated representatives: Gary M. Bird for City of Eureka

Employee organization: Eureka Firefighters' Local #652 (EFL), Eureka Fire Officers Local (EFOL), Eureka Police Officer's Association (EPOA), Eureka City Employees' Association (ECEA), and Unrepresented management, mid-management, and confidential employees.

Conference with legal counsel-anticipated litigation

Significant exposure to litigation: one case.

Conference with real property negotiators - Property: APN 001-054-45 and 001-054-13

Agency negotiator: David W. Tyson for the City of Eureka

Negotiating Parties: Eureka Waterfront Partners

Under negotiation: price, terms, and conditions

Upon reconvening to Open Session, it was announced that there were no final actions to report.

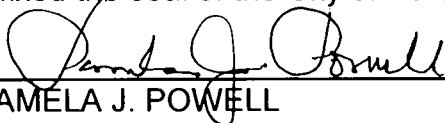
Agenda Item Closed Session

MINUTE ORDER, May 17, 2011  
ITEM: Closed Session  
PAGE: 2

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item Closed Session

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Mayor's announcements

ACTION:

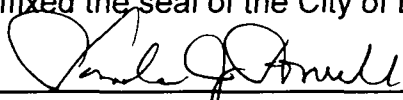
Mayor JÄGER presented a proclamation for Romano Gabriel Month – June 2011 to Delores Vellutini and Danny Furlong.

By consensus, the Council moved item 10 to the beginning of the Agenda.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

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PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item M/A

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Council reports / City-related travel report

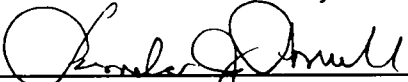
ACTION:

No Council reports.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

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PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item C/R



CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Board/Commission reports

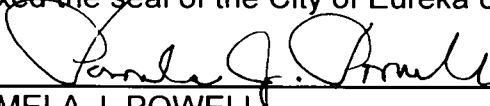
ACTION:

Keep Eureka Beautiful

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

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PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item B/C

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Public Hearing – Mycellia Sands, Business Loan Request

ACTION:

Redevelopment Director, Cindy Trobitz-Thomas provided a report.

The public hearing was opened at 8:12 P.M. No one from the public addressed the council regarding this subject matter.

The public hearing was closed at 8:12 P.M.

Council adopted Resolution No. 11-8 of the Redevelopment Agency adopting the Findings of Facts required to appropriate \$80,000 for business capital improvement from Redevelopment Agency; and Adopted Resolution 2011-28 of the City Council funding the remaining \$53,650 working capital requirement from Community Development Block Grant (CDBG) Revolving Loan Funds; and Authorized a loan totaling \$133,650 to Theodore J. Walker, Jr., dba Mycelia Sands, for a term of 10 years with a 3% interest rate, with payments deferred for two years.

Adopted on motion by Councilmember Madsen, seconded by Councilmember Brady, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

Agenda Item 1

MINUTE ORDER, May 17, 2011


ITEM: 1

PAGE: 2

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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PAMELA J. POWELL  
CITY CLERK

Originating Dept.    Redevelopment

Agenda Item   1

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Public Hearing – CDBG Planning and Technical Assistance Grant  
Application to assist "Humboldt Bay Housing & Development Corporation.

ACTION:

Redevelopment Director, Cindy Trobitz Thomas along with Beth Matsumot of Community Land Trust provided a report.

The public hearing was opened at 8:23 P.M. No one addressed the council regarding this subject matter.

The public hearing was closed at 8:23 P.M.

Council Adopted Resolution No. 2011-26 of the City Council approving an application on behalf of Humboldt Bay Housing Development Corporation (HBHDC), for a Community Development Block Grant (CDBG) Planning & Technical Application (PTA) Grant in the amount of \$35,000 for a feasibility Study of an Acquisition and Rehabilitation Program of Vacant Foreclosed Single Family Homes suitable for placement into an Exiting First Time Homebuyer Program or a Community Land Trust First Time Homebuyer Program; and Authorized the City Manager, Director of Redevelopment & Housing, and Finance Director to sign fund requests and other required reporting forms.

Adopted on motion by Councilmember Atkins, seconded by Councilmember Madsen, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

Agenda Item 2

MINUTE ORDER, May 17, 2011


ITEM: 2

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STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item 2

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Public Hearing – Redevelopment Agency Disposition and Development Agreement with Open Door Community Health Centers (AP#002-191-031)

ACTION:

Redevelopment Director, Cindy Trobitz Thomas provided a report.

The public hearing was opened at 8:34 P.M. No one from the public addressed the council regarding this subject matter.

The public hearing was closed at 8:34 P.M.

Council Adopted Resolution No. 2011-27 of the Eureka City Council and 11-9 of the Redevelopment Agency approving a Disposition and Development Agreement with Open Door Community Health Centers for the purchase of Assessor Parcel No. #002-191-031; and authorized the execution of a Disposition and Development Agreement with Open Door Community Health Centers.

Adopted on motion by Councilmember Ciarabellini, seconded by Councilmember Newman, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

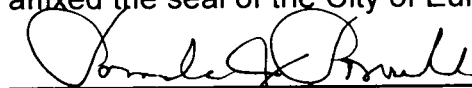
Agenda Item 3

MINUTE ORDER, May 17, 2011  
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STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Eureka on May 27, 2011.



PAMELA J. POWELL  
CITY CLERK

Originating Dept.    Redevelopment

Agenda Item 3

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Public comment period

ACTION:


The following individuals addressed the council at this time:

Dennis Scott, Eureka regarding POP Team statistics.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item 4



CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Council meeting minutes.

ACTION:

Council approved the regular Council/Agency meeting minutes of April 19, 2011 as submitted.

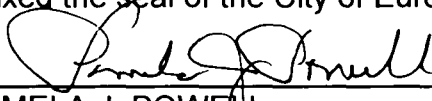
Adopted on motion by Councilmember Madsen, seconded by Councilmember Brady, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. City Clerk

Agenda Item 5

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Street Overlay 2011 Bid No. 2011-13

ACTION:

Council appropriated \$685,000 from Gas Tax and \$115,000 from Caltrans Non-Freeway Funds for the Street Overlay 2011 Project.


Adopted on motion by Councilmember Madsen, seconded by Councilmember Brady, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. Engineering

Agenda Item 6

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Class II Bike Lane on Harris Street from "I" Street to Harrison Avenue

ACTION:

Council revised the existing 2004 Regional Bicycle Transportation Plan to upgrade proposed bike route on Harris Street, from "I" Street to Harrison Avenue, from a Class III bike route to Class II bike lane.

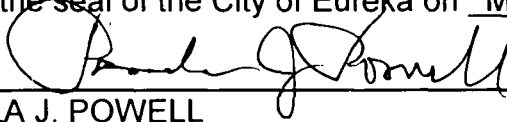
Adopted on motion by Councilmember Brady, seconded by Councilmember Atkins, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. Engineering

Agenda Item 7

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Mayor's appointments to Boards, Commissions and Committees.

ACTION:

Council approved the Mayor's appointment of Greg Williston to the Open Space, Parks and Recreation Commission with the term expiration date of January 1, 2014.

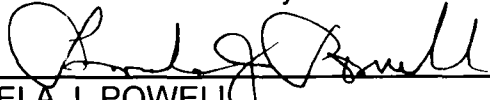
Adopted on motion by Councilmember Madsen, seconded by Councilmember Brady, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

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\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. Mayor

Agenda Item 8

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Letter Commenting on the Pacific Coast Salmon Plan Amendment 16  
Draft Environmental Assessment

ACTION:

Interim Community Development Director, Lisa Shikany introduced Jim Yarnall, President of the Salt Water Anglers Association to present a report. No one from the public addressed the Council on this matter.

Council authorized the Mayor to sign a letter to the Pacific Fisheries Management Council.

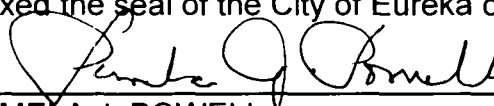
Adopted on motion by Councilmember Madsen, seconded by Councilmember Ciarabellini, and the following vote:

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN  
NOES: NONE  
ABSENT: NONE  
ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

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\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. Community Development

Agenda Item 9

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Humboldt Waste Management Authority Recycling Memorandum of Understanding (MOU)

ACTION:

Project Manager, Miles Slattery provided a report. Jim Test, Executive Director of Humboldt Waste Management also provided information. The following individuals addressed the council regarding this subject matter:

Milt Dobkin, Arata  
Steve Justus, Arcata  
Carol Mayes, Humboldt County  
John McClurg, McKinleyville  
Anda Webb, Eureka  
Jane Woodward, Arcata  
Jane Stock, Eureka  
Beth Baker, Eureka  
Chris Holmquist, Eureka  
Beth Matsumoto, Eureka  
Michael Tout, Eureka  
Jon Yalainkaya, Eureka  
John Murray, Humboldt County  
Heidi Benzonelli, Eureka  
Mark Lochmiller, Arcata  
Michelle McKeegan, Eureka  
Maureen Hart, Arcata  
Randy Hansen, Eureka  
Dan Heinen, Eureka  
Margaret Gainer, Bayside  
Emmit Jones, on behalf of Solid Waste of Willits  
Jerry Ward, Solid Waste of Willits

Council adopted an MOU giving flow control of the City's recyclable to Humboldt Waste Management Authority (HWMA) for the five year term of the Authority's contract with Solid Waste of Willits; and directed staff to pursue a contract between the City and Solid Waste of Willits for processing the City's recyclables should Humboldt Waste Management Authority not approve a contract with Solid Waste of Willits.

MINUTE ORDER, May 17, 2011

ITEM: 10

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Adopted on motion by Councilmember Madsen, seconded by Councilmember Ciarabellini, and the following vote:

AYES: BRADY, NEWMAN, CIARABELLINI, MADSEN

NOES: ATKINS

ABSENT: NONE

ABSTAIN: NONE

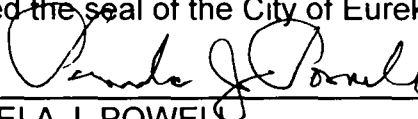
STATE OF CALIFORNIA )

County of Humboldt ) ss.

City of Eureka )

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PAMELA J. POWELL  
CITY CLERK

Originating Dept. Public Works

Agenda Item 10

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Recess.

ACTION:

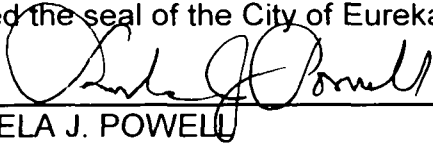
Without objection, the council elected to take a brief recess at 7:57 P.M.

At 8:08 P.M. Council reconvened with all present.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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PAMELA J. POWELL  
CITY CLERK



CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: City Manager/Executive Director's reports

ACTION:

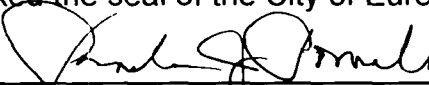
City Manager Tyson provided information regarding the following:

- Eureka Police Department introduced their new drug detection dog.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

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PAMELA J. POWELL  
CITY CLERK

Originating Dept. City Manager

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 17, 2011.

SUBJECT: Adjournment

ACTION:

Without objection, the meeting was adjourned at 9:14 P.M.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

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PAMELA J. POWELL  
CITY CLERK

MINUTES OF  
EUREKA CITY COUNCIL  
EUREKA REDEVELOPMENT AGENCY

May 26, 2011

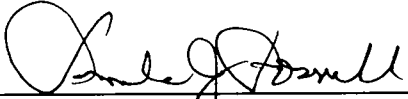
The City Council/Redevelopment Agency of the City of Eureka met in SPECIAL Session on the above date, 9:00 A.M. Open Session, at the Fire Safety Classroom, 3030 "L" Street, Eureka, CA.

PRESIDING: MAYOR PRO TEM MADSEN

PRESENT: BRADY, ATKINS, NEWMAN, CIARABELLINI


ABSENT: JÄGER

MINUTES PREPARED BY:



Pamela J. Powell  
City Clerk

COUNCIL APPROVAL ACKNOWLEDGED:

  
Frank J. Jäger  
Mayor

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 26, 2011

SUBJECT: Strategic Visioning Process

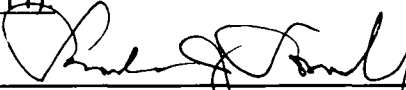
ACTION:

Council met with staff in a facilitated workshop format to develop agreements on project outcomes and process for the Strategic Visioning project.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed the seal of the City of Eureka on May 31,  
2011



PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item N/A

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 26, 2011

SUBJECT: One Time Waiver of City Ordinance 93.02 – Camping in the City of Eureka

ACTION:

Council waived City Ordinance No. 93.02 and allowed overnight camping at Halvorsen Park on the night of May 29, 2011 for Kinetic Sculpture Race participants.

AYES: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN

NOES:


ABSENT: NONE

ABSTAIN: NONE

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed the seal of the City of Eureka on May 31,  
2011).

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept. City Manager

Agenda Item 2

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 26, 2011

SUBJECT: Public Comment


ACTION:

Dick Twiddy, Eureka

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed the seal of the City of Eureka on May 31,  
2011).

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item N/A

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of May 26, 2011.

SUBJECT: ADJOURNMENT


ACTION:

Without objection, the meeting was adjourned at 11:14 A.M.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, Interim City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed the seal of the City of Eureka on May 31,  
2011).

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item

MINUTES OF  
EUREKA CITY COUNCIL  
EUREKA REDEVELOPMENT AGENCY

June 2, 2011

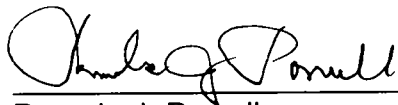
The City Council/Redevelopment Agency of the City of Eureka met in SPECIAL Session on the above date, 9:00 A.M. Open Session, at Eureka City Hall, Room 207, 531 "K" Street, Eureka.

PRESIDING: MAYOR JÄGER,

PRESENT: BRADY, ATKINS, NEWMAN, CIARABELLINI, MADSEN


ABSENT:

MINUTES PREPARED BY:



Pamela J. Powell  
City Clerk

COUNCIL APPROVAL ACKNOWLEDGED:

  
Frank J. Jäger  
Mayor



CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of June 2, 2011

SUBJECT: Strategic Visioning Project

ACTION:

Council met in a facilitated workshop to develop agreements on goals for the Strategic Visioning project.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed the seal of the City of Eureka on June 8,  
2011.



PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item N/A

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of June 2, 2011

SUBJECT: Public Comment


ACTION:

No one from the public addressed the Council.

STATE OF CALIFORNIA     )  
County of Humboldt        ) ss.  
City of Eureka             )

I, PAMELA J. POWELL, City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed the seal of the City of Eureka on June 8,  
2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item

CITY COUNCIL/REDEVELOPMENT AGENCY, CITY OF EUREKA  
COUNTY OF HUMBOLDT, STATE OF CALIFORNIA

MINUTE ORDER

Certified copy of portion of proceedings. Meeting of June 2, 2011.

SUBJECT: ADJOURNMENT


ACTION:

Without objection, the meeting was adjourned at 11: 57 A.M.

STATE OF CALIFORNIA )  
County of Humboldt ) ss.  
City of Eureka )

I, PAMELA J. POWELL, Interim City Clerk of the City of Eureka, do hereby certify the foregoing to be a true and correct copy of the original made in the above entitled matter by said City Council/Agency as the same now appears of record in my office.

IN WITNESS WHEREOF, I have hereunto set my hand  
and affixed the seal of the City of Eureka on June 8,  
2011.

  
\_\_\_\_\_  
PAMELA J. POWELL  
CITY CLERK

Originating Dept.

Agenda Item

**AGENDA SUMMARY****RE: SPELLENBERG, JAMEE****FOR AGENDA DATE: JUNE 21, 2011****AGENDA ITEM No.:** 5**RECOMMENDATION:**

Reject the claim for damages.

**SUMMARY:**

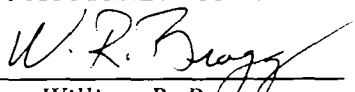
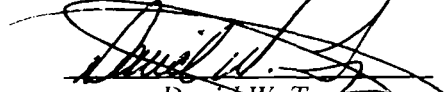
Tort claim in which claimant alleges police investigation resulted damage to motor vehicle.

**PROCEDURE:**

The proposed rejection of a claim is one step in what is typically a multi-step process, as provided for by the City Municipal Code, and the City tort claims and review process. Unless the claim is patently due and payable to the claimant, all claims are

*Continued page 2***FISCAL IMPACT:**

Claimant seeks \$2,582.92

**CITY ATTORNEY SIGNATURE**
  
 William R. Bragg  
 City Attorney
**CITY MANAGER SIGNATURE:**
  
 David W. Tyson  
 City Manager
**REVIEWED BY:**
 Risk Manager  
 Chief of Police
**DATE:**
 6/13/11  
 6/14/11
**INITIALS:**
 PJP  
 GN
**Council Action:**

Ordinance No. \_\_\_\_\_

Resolution No. \_\_\_\_\_

<b>RE:</b> SPELLENBERG, JAMEE	<b>FOR AGENDA DATE: JUNE 21, 2011</b> <b>AGENDA ITEM NO.:</b> <i>Page 2</i>
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**SUMMARY** *(continued)*

commonly rejected by the City Council at this phase. The claim is then forwarded to the coverage joint powers authority for any further appropriate action. This might include further investigation of the claim, if any appears indicated, settlement in some cases, or the defense of an ensuing legal action, as the facts and circumstances warrant.

Eureka Municipal Code § 39.22 provides the City Council with the following options:

- *Reject the claim*
- *Allow the claim*
- *Allow the Claim in part, and reject it in part, if the claim is deemed valid, but the amount claimed is found to be incorrect*
- *Reject or compromise the claim if legal liability is disputed*
- *If the City Council allows the claim in whole or in part or compromises the claim, it may require the claimant, if he accepts the amount allowed or offered, to settle the claim, to accept it in settlement of the entire claim.*

In practice, however, the City's discretion in handling claims is somewhat constrained by the City's self-insurance memorandum of coverage with the Redwood Empire Municipal Insurance Fund (REMIF). In order to maintain coverage, the City has agreed to certain terms that are common in coverage agreements, including giving REMIF: the right to control, investigate, settle, or defend any claim that is covered by the coverage agreement.

Staff believes that the proposed rejection of this claim is appropriate at this time, based on currently available information, and is in conformance with the City's agreement with REMIF regarding handling of claims.

File with:  
City of Eureka  
531 "K" Street  
Eureka, CA 95501

**CLAIM FOR MONEY OR  
DAMAGES AGAINST THE  
CITY OF EUREKA**

RESERVE FOR FILING STAMP

CLAIM NO.

**RECEIVED**

MAY 25 2011

- CITY CLERK

IN PERSON

A claim must be presented, as prescribed by the Government Code of the State of California, by the claimant or a person acting on his/her behalf and shall show the following:

**If additional space is needed to provide your information, please attach sheets, identifying the paragraph(s) being answered.**

1. Name and Post Office address of the Claimant:

Name of Claimant: Jamie Lee Spellenberg

Post Office Address: 3840 Ian Ct.

Eureka, CA 95503

2. Post Office address to which the person presenting the claim desires notices to be sent:

Name of Addressee: Jamie Spellenberg

Telephone: 707-497-9146

Post Office Address: 3840 Ian Ct.

Eureka, CA 95503

3. The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.

Date of Occurrence: 05/14/2011

Time of Occurrence: 0249

Location: W. Washington St. Eureka, CA 95501

Circumstances giving rise to this claim: Officer Cress from Eureka Police Department made a statement to me that him and the other officer had torn off my car door handle and to come file a claim for damages to my car.

4. General description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of the presentation of the claim.

see attached estimate for car repairs.

5. The name or names of the public employee or employees causing the injury, damage, or loss, if known.

Officer Cress, Officer Southwell, Officer Anderson, and Sgt. Sanchez

6. **If amount claimed totals less than \$10,000:** The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed.

Amount Claimed and basis for computation: Estimated at this point \$2,502.92

**If amount claimed exceeds \$10,000:** If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case. A limited civil case is one where the recovery sought, exclusive of attorney fees, interest and court costs does not exceed \$25,000. An unlimited civil case is one in which the recovery sought is more than \$25,000. (See CCP § 86.)

☐ Limited Civil Case

☐ Unlimited Civil Case

**You are required to provide the information requested above, plus your signature on page 3 of this form, in order to comply with Government Code §910. In addition, in order to conduct a timely investigation and possible resolution of your claim, the city requests that you answer the following questions.**

7. Claimant(s) Date(s) of Birth:

05/24/1988

8. Name, address and telephone number of any witnesses to the occurrence or transaction which gave rise to the claim asserted:

9. If the claim involves medical treatment for a claimed injury, please provide the name, address and telephone number of any doctors or hospitals providing treatment:

*If applicable, please attach any medical bills or reports or similar documents supporting your claim.*

10. If the claim relates to an automobile accident:

Claimant(s) Auto Ins. Co.:

Telephone:

Address:

Insurance Policy No.:

Insurance Broker/Agent:

Telephone:

Address:

Claimant's Veh. Lic. No.:

Vehicle Make/Year:

Claimant's Drivers Lic. No.:

Expiration:

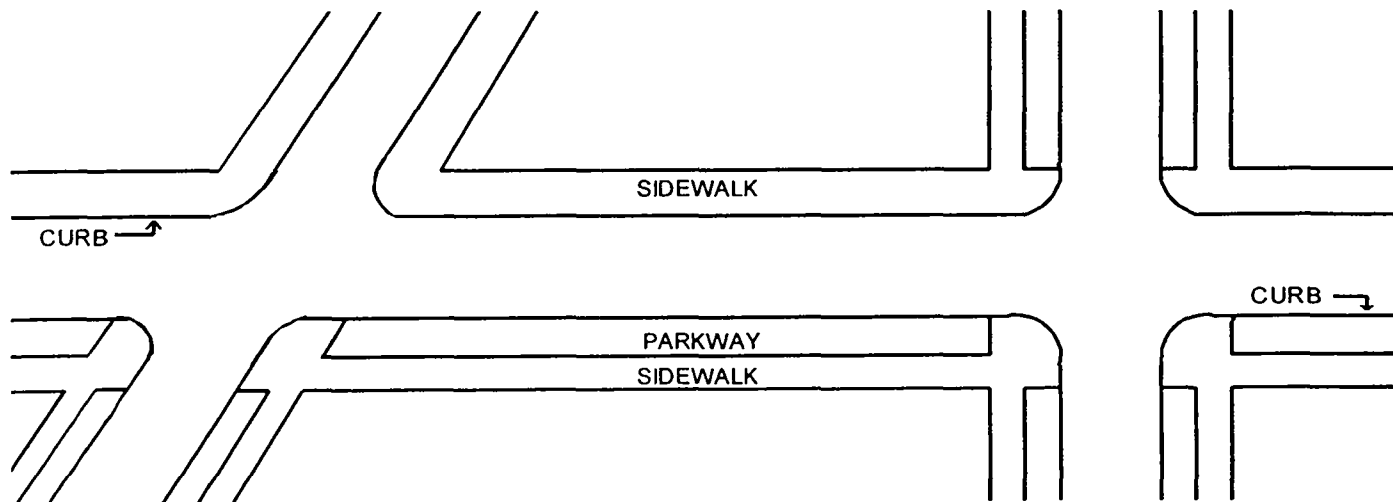
*If applicable, please attach any repair bills, estimates or similar documents supporting your claim.*

**READ CAREFULLY**

For all accident claims, place on following diagram name of streets, including North, East, South, and West; indicate place of accident by "X" and by showing house numbers or distances to street corners. If /Agency Vehicle was involved, designate by letter "A" location of /Agency Vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw

/Agency Vehicle; location of /Agency vehicle at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X."

NOTE: If diagrams below do not fit the situation, attach hereto a proper diagram signed by claimant.



**Warning:** Presentation of a false claim with the intent to defraud is a felony (Penal Code §72). Pursuant to CCP §1038, the /Agency may seek to recover all costs of defense in the event an action is filed which is later determined not to have been brought in good faith and with reasonable cause.

Signature: Jamae Spellberg

Date: 05/25/2011



Date: 05/23/2011 01:23 PM  
 Estimate ID: 6685  
 Estimate Version: 0  
 Preliminary  
 Profile ID: Standard

## Myrtle town Body Shop

2706 myrtle ave, EUREKA, CA 95501  
 (707) 442-3722  
 Fax: (707) 442-2337  
 Email: MYRTLETOWNBODY@YAHOO.COM

Damage Assessed By: Todd Rice

Condition Code: Good  
 Deductible: UNKNOWN

Type of Loss: Comprehensive (Spec)

Insured: JAMIE SPELLENBERG

Mitchell Service: 910574

Description: 2008 Ford Fusion SE  
 Body Style: 4D Sed  
 VIN: 3FAHP07Z48R227454  
 OEM/ALT: O  
 Color: BLACK

Vehicle Production Date: 3/08  
 Drive Train: 2.3L Inj 4 Cyl 5A FWD  
 License: 6EBA976 CA  
 Search Code: B95501

Options: POWER DRIVER SEAT, POWER LOCK, POWER WINDOW, MANUAL AIR CONDITION  
 CRUISE CONTROL, TILT STEERING COLUMN, TELESCOPIC STEERING COLUMN  
 ANTI-LOCK BRAKE SYS., ALUM/ALLOY WHEELS, IPOD ADAPTER, AUTOMATIC TRANSMISSION  
 FRONT AIR DAM, TINTED GLASS, TRIP COMPUTER, VARIABLE ASSISTED STEERING  
 ANTI-THEFT SYSTEM, AM/FM STEREO CD CHANGER WITH PREMIUM SOUND  
 FRONT BUCKET SEATS, KEYLESS ENTRY SYSTEM, POWER DISC BRAKES  
 POWER LIFTGATE/TRUNK, STEERING WHEEL AUDIO CONTROLS

Line Item	Entry Number	Labor Type	Operation	Line Item Description	Part Type/ Part Number	Dollar Amount	Labor Units
1	000166	BDY	REMOVE/INSTALL	Frt Bumper Cover			INC
2	000169	BDY	REMOVE/INSTALL	R Front Combination Lamp			1.6 #
3	001695	REF	BLEND	R Fender Outside			C 0.8
4	002757	BDY	REMOVE/REPLACE	R Frt Door Shell	Qual Recycled Part	687.50	* 4.8 #
5	AUTO	REF	REFINISH	R Frt Door Outside			C 2.2
6	AUTO	REF	REFINISH	R Frt Add For Jambs & Interior			C 1.0
7	001218	BDY	REMOVE/REPLACE	R Frt Door Adhesive Moulding	6E5Z 5420878 APTM	42.77	0.1
8	AUTO	REF	REFINISH	R Frt Door Moulding			C 0.5
9	001290	BDY	REMOVE/REPLACE	L Frt Door Outside Handle	AE5Z 5422404 AA	21.47	INC
10	AUTO	REF	REFINISH	L Frt Otr Handle			C 0.5
11	001292	BDY	REMOVE/REPLACE	L Frt Otr Door Handle Bezel	7E5Z 54218A14 AAPTM	10.22	INC #
12	AUTO	REF	REFINISH	L Frt Otr Bezel			INC
13	001294	BDY	REMOVE/REPLACE	L Frt Otr Door Handle Bracket	BE5Z 5426685 A	53.93	0.6 #
14	001303	BDY	REMOVE/REPLACE	R Frt Up Door Hinge	Qual Recycled Part	INC*	0.2 #
15	AUTO	REF	REFINISH	R Frt Up Hinge			C 0.5
16	001305	BDY	REMOVE/REPLACE	R Frt Lwr Door Hinge	Qual Recycled Part	INC*	0.2 #
17	AUTO	REF	REFINISH	R Frt Lwr Hinge			C 0.5
18	001307	BDY	REMOVE/REPLACE	R Frt Door Check	Qual Recycled Part	INC*	INC #
19	001764	REF	REFINISH	R Rear Door Outside			C 1.8
20	001772	BDY	REMOVE/INSTALL	R Rear Otr Belt Moulding			0.6 #
21	001329	BDY	REMOVE/INSTALL	R Rear Door Adhesive Moulding	Existing		0.5*
22	001774	BDY	REMOVE/INSTALL	R Rear Door Trim Panel			INC

ESTIMATE RECALL NUMBER: 05/23/2011 13:22:38 6685

Mitchell Data Version: OEM: MAR\_11\_V UltraMate is a Trademark of Mitchell International  
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 UltraMate Version: 7.0.329 All Rights Reserved

Date: 05/23/2011 01:23 PM  
 Estimate ID: 6685  
 Estimate Version: 0  
 Preliminary  
 Profile ID: Standard

23	001783	BDY	REMOVE/INSTALL	R Rear Otr Door Handle		0.3
24	936012		ADD'L COST	Hazardous Waste Disposal		3.00 *
25	AUTO	REF	ADD'L OPR	Clear Coat		2.2
26	933003	REF	ADD'L OPR	Tint Color		0.5*
27	933018	REF	ADD'L OPR	Mask For Overspray	10.00 *	0.1*
28	AUTO		ADD'L COST	Paint	336.00 *	

\* - Judgment Item  
 # - Labor Note Applies  
 C - Included in Clear Coat Calc  
 r - CEG R&R Time Used For This Labor Operation

## Estimate Totals

I. Labor Subtotals						II. Part Replacement Summary				Amount
	Units	Rate	Add'l Labor Amount	Sublet Amount	Totals					
Body	8.9	68.00	0.00	0.00	605.20	Taxable Parts			815.89	
Refinish	10.6	68.00	10.00	0.00	730.80	Sales Tax	@	8.250%	67.31	
Non-Taxable Labor					1,336.00	Total Replacement Parts Amount				883.20
Labor Summary	19.5				1,336.00					
III. Additional Costs						IV. Adjustments				Amount
Taxable Costs					336.00	Customer Responsibility				0.00
Sales Tax					27.72					
Non-Taxable Costs					3.00					
Total Additional Costs					366.72					
Paint Material Method: Rates										
Init Rate = 32.00 , Init Max Hours = 99.9, Addl Rate = 0.00										
						I.	Total Labor:		1,336.00	
						II.	Total Replacement Parts:		883.20	
						III.	Total Additional Costs:		366.72	
							Gross Total:		2,585.92	
						IV.	Total Adjustments:		0.00	
							Net Total:		2,585.92	

This is a preliminary estimate.

Additional changes to the estimate may be required for the actual repair.

### Point(s) of Impact

2 Right Front Side (P)

ESTIMATE RECALL NUMBER: 05/23/2011 13:22:38 6685

Mitchell Data Version: OEM: MAR\_11\_V

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 All Rights Reserved

UltraMate Version: 7.0.329

Date: 05/23/2011 01:23 PM  
Estimate ID: 6685  
Estimate Version: 0  
Preliminary  
Profile ID: Standard

PARTS PRICES SUBJECT TO INVOICES.HIDDEN DAMAGE OPEN.

AUTHORIZATION

**AGENDA SUMMARY****RE: GROSSMAN, SIMONE****FOR AGENDA DATE: JUNE 21, 2011****AGENDA ITEM NO.:**

6

**RECOMMENDATION:**

Reject the claim for damages.

**SUMMARY:**

Tort claim in which claimant alleges personal injury related to a vehicle/pedestrian collision.


**PROCEDURE:**

The proposed rejection of a claim is one step in what is typically a multi-step process, as provided for by the City Municipal Code, and the City tort claims and review process. Unless the claim is patently due and payable to the claimant, all claims are

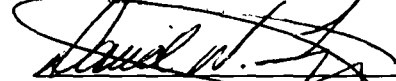
*Continued page 2***FISCAL IMPACT:**

Claimant seeks \$500,000.

**CITY ATTORNEY SIGNATURE**

  
 William R. Bragg  
 City Attorney

**CITY MANAGER SIGNATURE:**

  
 David W. Tison  
 City Manager

**REVIEWED BY:**

Risk Manager  
 City Engineer

**DATE:**

6/13/11

6/14/11

**INITIALS:**

PJP

KG

**Council Action:**

Ordinance No. \_\_\_\_\_

Resolution No. \_\_\_\_\_

<b>RE: GROSSMAN, SIMONE</b>	<b>FOR AGENDA DATE: JUNE 21, 2011</b> <b>AGENDA ITEM NO.:</b> <i>Page 2</i>
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**SUMMARY** *(continued)*

commonly rejected by the City Council at this phase. The claim is then forwarded to the coverage joint powers authority for any further appropriate action. This might include further investigation of the claim, if any appears indicated, settlement in some cases, or the defense of an ensuing legal action, as the facts and circumstances warrant.

Eureka Municipal Code § 39.22 provides the City Council with the following options:

- *Reject the claim*
- *Allow the claim*
- *Allow the Claim in part, and reject it in part, if the claim is deemed valid, but the amount claimed is found to be incorrect*
- *Reject or compromise the claim if legal liability is disputed*
- *If the City Council allows the claim in whole or in part or compromises the claim, it may require the claimant, if he accepts the amount allowed or offered, to settle the claim, to accept it in settlement of the entire claim.*

In practice, however, the City's discretion in handling claims is somewhat constrained by the City's self-insurance memorandum of coverage with the Redwood Empire Municipal Insurance Fund (REMIF). In order to maintain coverage, the City has agreed to certain terms that are common in coverage agreements, including giving REMIF: the right to control, investigate, settle, or defend any claim that is covered by the coverage agreement.

Staff believes that the proposed rejection of this claim is appropriate at this time, based on currently available information, and is in conformance with the City's agreement with REMIF regarding handling of claims.

File with:  
City of Eureka  
531 "K" Street  
Eureka, CA 95501

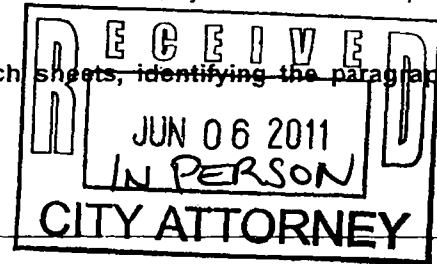
**CLAIM FOR MONEY OR  
DAMAGES AGAINST THE  
CITY OF EUREKA**

RESERVE FOR FILING STAMP

CLAIM NO. \_\_\_\_\_

A claim must be presented, as prescribed by the Government Code of the State of California, by the claimant or a person acting on his/her behalf and shall show the following:

If additional space is needed to provide your information, please attach sheets, identifying the paragraph(s) being answered.



1. Name and Post Office address of the Claimant:

Name of Claimant: Simone Grossman

Post Office Address: c/o Zwerdling Dibble, LLP  
123 F Street, Suite C  
Eureka, CA 95501

2. Post Office address to which the person presenting the claim desires notices to be sent:

Name of Addressee: Zwerdling Dibble, LLP

Telephone: (707) 445-9628

Post Office Address: 123 F Street, Suite C  
Eureka, CA 95501

3. The date, place and other circumstances of the occurrence or transaction which gave rise to the claim asserted.

Date of Occurrence: February 16, 2011

Time of Occurrence: 22:20

Location: McCullens Avenue and Rudy Street.

Circumstances giving rise to this claim: See collision report attached hereto.

Claimant was struck by a CHP vehicle as she was walking East on McCullen crossing Rudy Street. The street light at the intersection was not functioning at the time. See 3 and 4 attached hereto.

4. General description of the indebtedness, obligation, injury, damage or loss incurred so far as it may be known at the time of the presentation of the claim.

Fracture of left tibial plateau. Medical specials are unknown at this time. Loss of income is unknown at this time.

5. The name or names of the public employee or employees causing the injury, damage, or loss, if known.

6. **If amount claimed totals less than \$10,000:** The amount claimed if it totals less than ten thousand dollars (\$10,000) as of the date of presentation of the claim, including the estimated amount of any prospective injury, damage, or loss, insofar as it may be known at the time of the presentation of the claim, together with the basis of computation of the amount claimed.

Amount Claimed and basis for computation: \$500,000.00 based on severity of injury.

**If amount claimed exceeds \$10,000:** If the amount claimed exceeds ten thousand dollars (\$10,000), no dollar amount shall be included in the claim. However, it shall indicate whether the claim would be a limited civil case. A limited civil case is one where the recovery sought, exclusive of attorney fees, interest and court costs does not exceed \$25,000. An unlimited civil case is one in which the recovery sought is more than \$25,000. (See CCP § 86.)

☐ Limited Civil Case

☒ Unlimited Civil Case

You are required to provide the information requested above, plus your signature on page 3 of this form, in order to comply with Government Code §910. In addition, in order to conduct a timely investigation and possible resolution of your claim, the city requests that you answer the following questions.

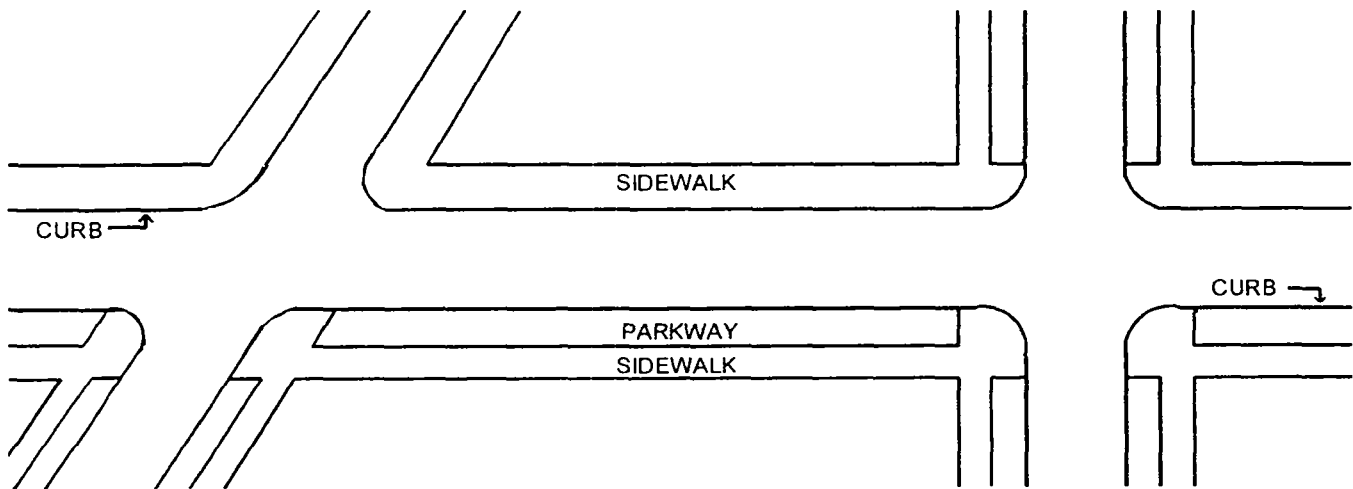
7. Claimant(s) Date(s) of Birth:  
January 29, 1960
8. Name, address and telephone number of any witnesses to the occurrence or transaction which gave rise to the claim asserted:  
See attached collision report.
9. If the claim involves medical treatment for a claimed injury, please provide the name, address and telephone number of any doctors or hospitals providing treatment:  
St. Joseph Hospital, 2700 Dolbeer Street, Eureka, CA 95501  
William Kilgore, M.D., 2826 Harris Street, Eureka, CA 95503  
City Ambulance, 135 W 7th Street, Eureka, CA 95501
- If applicable, please attach any medical bills or reports or similar documents supporting your claim.*
10. If the claim relates to an automobile accident:
- |                              |                       |
|------------------------------|-----------------------|
| Claimant(s) Auto Ins. Co.:   | Telephone:            |
| Address:                     |                       |
|                              | Insurance Policy No.: |
| Insurance Broker/Agent:      | Telephone:            |
| Address:                     |                       |
| Claimant's Veh. Lic. No.:    | Vehicle Make/Year:    |
| Claimant's Drivers Lic. No.: | Expiration:           |
- If applicable, please attach any repair bills, estimates or similar documents supporting your claim.*

READ CAREFULLY

For all accident claims, place on following diagram name of streets, including North, East, South, and West; indicate place of accident by "X" and by showing house numbers or distances to street corners. If /Agency Vehicle was involved, designate by letter "A" location of /Agency Vehicle when you first saw it, and by "B" location of yourself or your vehicle when you first saw

/Agency Vehicle; location of /Agency vehicle at time of accident by "A-1" and location of yourself or your vehicle at the time of the accident by "B-1" and the point of impact by "X."

NOTE: If diagrams below do not fit the situation, attach hereto a proper diagram signed by claimant.



**Warning:** Presentation of a false claim with the intent to defraud is a felony (Penal Code §72). Pursuant to CCP §1038, the /Agency may seek to recover all costs of defense in the event an action is filed which is later determined not to have been brought in good faith and with reasonable cause.

Signature:

Date:

June 6, 2011



3. California Highway Patrol Officer Michael Hindley is legally responsible for this incident because he was driving without headlights and was driving inattentively such that he struck claimant, a pedestrian who had the right of way.
4. According to the Eureka Police Department report attached hereto, street lights at the subject location were not functioning and may have contributed to the accident. Said street lights were within the city limits of Eureka, California and therefore the City of Eureka is responsible for the street light maintenance and repair. Claimant further alleges that the subject intersection was dangerous due to poor lighting, lack of signage, lack of warning and unsafe pedestrian crossing facilities.

STATE OF CALIFORNIA  
**TRAFFIC COLLISION REPORT**  
 CHP 555 Page 1 (Rev. 7-03) OPI 061

Page 1 of 7

SPECIAL CONDITIONS  on duty emergency vehc.		NUMBER INJURED 1	HIT & RUN FELONY <input type="checkbox"/>	CITY Eureka	JUDICIAL DISTRICT Humboldt	LOCAL REPORT NUMBER 3T11-227	
		NUMBER KILLED 0	HIT & RUN MISDEMEANOR <input type="checkbox"/>	COUNTY Humboldt	REPORTING DISTRICT 2	BEAT	
LOCATION	COLLISION OCCURRED ON Rudy				MO. DAY YEAR 4 16 11	TIME (2400) 2220	NCIC # 1203
	MILEPOST INFORMATION				DAY OF WEEK S M T W T F S	TOW AWAY <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	PHOTOGRAPHS BY: <input type="checkbox"/> NONE Sgt. Larson (CHP)
	FEET/MILES OF				STATE HWY REL <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
	INTERSECTION WITH <input checked="" type="checkbox"/> OR 4 FEET/MILES S OF McCullens						
PARTY 1	DRIVER'S LICENSE NUMBER A2354708		STATE Ca	CLASS C	AIR BAG m	SAFETY EQUIP G	VEH. YEAR 08
DRIVER	NAME (FIRST, MIDDLE, LAST) Michael Scott Hindley				MAKE/MODEL/COLOR Ford Crown Vic 34/wht		LICENSE NUMBER 1270495
PEDESTRIAN	STREET ADDRESS 255 E. Samoa Blvd.				OWNER'S NAME State of California		STATE Ca
PARKED VEHICLE	CITY/STATE/ZIP Arcata Ca 95521				OWNER'S ADDRESS 3300 Reed ave Sacto 95605		
BICYCLIST	SEX M	HAIR B/N	EYES H/1	HEIGHT 6'0"	WEIGHT 220	BIRTHDATE Mo Day Year 6 6 70	RACE W
OTHER	HOME PHONE —		BUSINESS PHONE (707) 822-5981		DISPOSITION OF VEHICLE ON ORDERS OF: <input type="checkbox"/> OFFICER <input checked="" type="checkbox"/> DRIVER <input type="checkbox"/> OTHER		
INSURANCE CARRIER State of California / Self insured		POLICY NUMBER		PRIOR MECHANICAL DEFECTS: <input checked="" type="checkbox"/> NONE APPARENT <input type="checkbox"/> REFER TO NARRATIVE			
DIR OF TRAVEL ON STREET OR HIGHWAY S		SPEED LIMIT 25		VEHICLE IDENTIFICATION NUMBER		VEHICLE TYPE 01	
CA		DOT		DESCRIBE VEHICLE DAMAGE <input type="checkbox"/> UNK <input checked="" type="checkbox"/> NONE <input type="checkbox"/> MINOR <input type="checkbox"/> MOD <input type="checkbox"/> MAJOR <input type="checkbox"/> ROLL-OVER		SHADE IN DAMAGED AREA >	
CAL-T		TCP/PSC		MCMX			
PARTY 2	DRIVER'S LICENSE NUMBER		STATE	CLASS	AIR BAG	SAFETY EQUIP	VEH. YEAR
DRIVER	NAME (FIRST, MIDDLE, LAST) Simone NMN Grossman				MAKE/MODEL/COLOR		LICENSE NUMBER
PEDESTRIAN	STREET ADDRESS 1503 McCullens Ave. RM 15				OWNER'S NAME <input type="checkbox"/> SAME AS DRIVER		STATE
PARKED VEHICLE	CITY/STATE/ZIP Eureka Ca 95503				OWNER'S ADDRESS <input type="checkbox"/> SAME AS DRIVER		
BICYCLIST	SEX F	HAIR Blk	EYES Brn	HEIGHT 5'3"	WEIGHT 140	BIRTHDATE Mo Day Year 1 29 60	RACE W
OTHER	HOME PHONE (707) 362-3102		BUSINESS PHONE		DISPOSITION OF VEHICLE ON ORDERS OF: <input type="checkbox"/> OFFICER <input type="checkbox"/> DRIVER <input type="checkbox"/> OTHER		
INSURANCE CARRIER		POLICY NUMBER		PRIOR MECHANICAL DEFECTS: <input type="checkbox"/> NONE APPARENT <input type="checkbox"/> REFER TO NARRATIVE			
DIR OF TRAVEL ON STREET OR HIGHWAY E		SPEED LIMIT 25		VEHICLE IDENTIFICATION NUMBER		VEHICLE TYPE 60	
CA		DOT		DESCRIBE VEHICLE DAMAGE <input type="checkbox"/> UNK <input type="checkbox"/> NONE <input type="checkbox"/> MINOR <input type="checkbox"/> MOD <input type="checkbox"/> MAJOR <input type="checkbox"/> ROLL-OVER		SHADE IN DAMAGED AREA >	
CAL-T		TCP/PSC		MCMX			
PARTY 3	DRIVER'S LICENSE NUMBER		STATE	CLASS	AIR BAG	SAFETY EQUIP	VEH. YEAR
DRIVER	NAME (FIRST, MIDDLE, LAST)				MAKE/MODEL/COLOR		LICENSE NUMBER
PEDESTRIAN	STREET ADDRESS				OWNER'S NAME <input type="checkbox"/> SAME AS DRIVER		STATE
PARKED VEHICLE	CITY/STATE/ZIP				OWNER'S ADDRESS <input type="checkbox"/> SAME AS DRIVER		
BICYCLIST	SEX	HAIR	EYES	HEIGHT	WEIGHT	BIRTHDATE Mo Day Year	RACE
OTHER	HOME PHONE		BUSINESS PHONE		DISPOSITION OF VEHICLE ON ORDERS OF: <input type="checkbox"/> OFFICER <input type="checkbox"/> DRIVER <input type="checkbox"/> OTHER		
INSURANCE CARRIER		POLICY NUMBER		PRIOR MECHANICAL DEFECTS: <input type="checkbox"/> NONE APPARENT <input type="checkbox"/> REFER TO NARRATIVE			
DIR OF TRAVEL ON STREET OR HIGHWAY		SPEED LIMIT		VEHICLE IDENTIFICATION NUMBER		VEHICLE TYPE	
CA		DOT		DESCRIBE VEHICLE DAMAGE <input type="checkbox"/> UNK <input type="checkbox"/> NONE <input type="checkbox"/> MINOR <input type="checkbox"/> MOD <input type="checkbox"/> MAJOR <input type="checkbox"/> ROLL-OVER		SHADE IN DAMAGED AREA >	
CAL-T		TCP/PSC		MCMX			
REPAIRER'S NAME CROSS		DISPATCH NOTIFIED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A		REVIEWER'S NAME		DATE REVIEWED	

**CONTROLLED DOCUMENT**  
 DUPLICATION OR REISSUANCE  
 CONTROLLED BY LAW  
 Released to Zuerling Doble  
 Date 4-11-11  
 By [Signature]  
 Eureka Police Department

OSP 03 79147

DATE OF COLLISION (MO DAY YEAR)			TIME (2400)	NCIC #	OFFICER I.D.	NUMBER								
4 16 11			2220	1203	472	3T11-227								
WITNESS ONLY	PASSENGER ONLY	AGE	SEX	EXTENT OF INJURY ("X" ONE)			INJURED WAS ("Y" ONE)			PARTY NUMBER	SEAT POS.	AIR BAG	SAFETY EQUIP.	EJECTOR
		51	F	FATAL INJURY	SEVERE INJURY	OTHER VISIBLE INJURY	COMPLAINT OF PAIN	DRIVER	PASS.	PED.	BICYCLIST	OTHER		
							X			X				2

NAME / D.O.B. / ADDRESS  
Simone Grossman, 1/29/60, 1503 McCullens Ave. #15 Eureka Ca 95503 (707) 362-3102

INJURED ONLY, TRANSPORTED BY  
St. Joseph Hospital via City Ambulance

DESCRIBE INJURIES  
Complaint of pain to left knee

VICTIM OF VIOLENT CRIME NOTIFIED

X# 1

NAME / D.O.B. / ADDRESS  
Brenda Joyce Lewis, 6/24/46, 1201 Allard Ave. Space 86 Eureka Ca 95503 (707) 442-0702

INJURED ONLY, TRANSPORTED BY  
TAKEN TO

DESCRIBE INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

X# 2

NAME / D.O.B. / ADDRESS  
Richard Wayne Hunt, 2/4/83, 1620 Allard Ave. Apt. B Eureka Ca 95503 (907) 252-1806

INJURED ONLY, TRANSPORTED BY  
TAKEN TO

DESCRIBE INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

X# 3

NAME / D.O.B. / ADDRESS  
Gary Christopher Noel, 8/13/88, 2491 Bainbridge St. Eureka Ca 95501 (707) 459-2999

INJURED ONLY, TRANSPORTED BY  
TAKEN TO

DESCRIBE INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

#

NAME / D.O.B. / ADDRESS  
TAKEN TO

INJURED ONLY, TRANSPORTED BY  
TAKEN TO

DESCRIBE INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

#

NAME / D.O.B. / ADDRESS  
TAKEN TO

INJURED ONLY, TRANSPORTED BY  
TAKEN TO

DESCRIBE INJURIES

VICTIM OF VIOLENT CRIME NOTIFIED

PREPARED BY  
CROSS

NUMBER  
472

MO DAY YEAR  
4/26/11

REVIEWER'S NAME  
TAL

MO DAY YEAR

STATE OF CALIFORNIA  
**NARRATIVE/SUPPLEMENTAL**

Page 4 of 7

DATE OF INCIDENT/OCCURRENCE 4/16/11	TIME (2400) 2220	NCIC NUMBER 1203	OFFICER I.D. NUMBER 472	NUMBER 4T11-227
"X" ONE <input checked="" type="checkbox"/> Narrative <input type="checkbox"/> Supplemental		"X" ONE <input checked="" type="checkbox"/> Collision Report <input type="checkbox"/> Other:		
TYPE SUPPLEMENTAL ("X" APPLICABLE) <input type="checkbox"/> BA update <input type="checkbox"/> Fatal <input type="checkbox"/> Hit and run update <input type="checkbox"/> Hazardous materials <input type="checkbox"/> School Bus <input type="checkbox"/> Other:				
CITY/COUNTY/JUDICIAL DISTRICT Eureka/Humboldt				REPORTING DISTRICT/BEAT 2
LOCATION/SUBJECT Rudy at McCullens				CITATION NUMBER STATE HIGHWAY RELATED <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

1 **FACTS:**

2  
3 **NOTIFICATION:**

4  
5 On 4/16/11 at about 2220 hours I was on patrol in the City of Eureka. I was westbound on McCullens  
6 Avenue approaching Rudy Street when I noticed taillights extending into the eastbound lane of  
7 McCullens Avenue from Rudy Street. As I got closer I noticed that the vehicle was a California  
8 Highway Patrol car. As I got closer I noticed there was a female sitting on the ground in the  
9 southbound lane of Rudy just south of the prolongation of McCullens. CHP Officer Hindley was  
10 standing near her comforting her. I stopped and offered assistance. Officer Hindley advised me that he  
11 had collided with the female as he turned southbound onto Rudy from McCullens. I completed the  
12 resulting traffic investigation. Unless noted, all speeds, times, and measurements are approximate.  
13 Measurements were made with a rola-tape.

14  
15 **SCENE:**

16  
17 At the scene of this collision Rudy Street is a two lane, two-way, north/south city street. It is paved  
18 with asphalt and slopes slightly upward to the south. McCullens Avenue is a two lane, two-way,  
19 east/west city street. It is paved and slopes upward slightly to the east. Rudy and McCullens intersect at  
20 a ninety degree angle at a "T" intersection with Rudy extending off of McCullens to the south. A stop  
21 sign controls northbound traffic on Rudy at McCullens. There are no controls on McCullens at Rudy.  
22 There is no marked crosswalk on Rudy at McCullens. A city maintained street light illuminates the  
23 intersection. I noted during the investigation that it fluctuated on and off with the majority of the time  
24 spent off.

25  
26 **VEHICLES/PARTIES:**

27  
28 V1 (Crown Victoria) was facing southbound (slightly angled toward the southwest) stopped in the  
29 southbound lane of Rudy. The rear bumper of V1 extended into the eastbound lane of McCullens.  
30 There did not appear to be any preexisting damage to V1. D1 (Hindley) was located outside V1  
31 standing with P1 (Grossman). D1 was identified via prior knowledge and statements. P1 was identified  
32 via statements. P1 was sitting on the asphalt about half way across the southbound lane of Rudy.

33  
34 **PHYSICAL EVIDENCE:**

35  
36 I took several digital photos of the scene including the point of rest of V1, the street light and the  
37 intersection. At some point after taking the photos they were deleted from the camera without having  
38 been booked into evidence. I contacted CHP Sergeant Larson who had responded to the scene and  
39 taken his own photos. I asked Sergeant Larson to forward his photos to me. He sent them to me and I  
40 booked them into evidence at the Eureka Police Department.

PREPARED BY NAME AND ID NUMBER Cress 472 <i>PC</i>	DATE 04/25/11	REVIEWER'S NAME <i>G. Whitehead</i>	DATE 5-2-11
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## NARRATIVE/SUPPLEMENTAL

Page 5 of 7

DATE OF INCIDENT/OCCURRENCE 4/16/11		TIME (2400) 2220	NCIC NUMBER 1203	OFFICER I.D. NUMBER 472	NUMBER 4T11-227
*X* ONE <input checked="" type="checkbox"/> Narrative <input type="checkbox"/> Supplemental		*X* ONE <input checked="" type="checkbox"/> Collision Report <input type="checkbox"/> Other:		TYPE SUPPLEMENTAL (*X* APPLICABLE) <input type="checkbox"/> BA update <input type="checkbox"/> Hazardous materials <input type="checkbox"/> Fatal <input type="checkbox"/> School Bus <input type="checkbox"/> Hit and run update <input type="checkbox"/> Other:	
CITY/COUNTY/JUDICIAL DISTRICT Eureka/Humboldt				REPORTING DISTRICT/BEAT 2	CITATION NUMBER
LOCATION/SUBJECT Rudy at McCullens				STATE HIGHWAY RELATED <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

I responded to the hospital and noted that P1 complained of pain to her left knee. I noted that she was wearing dark clothing. I photographed the clothing but they were among the deleted photos.

**STATEMENTS:**

D1 said he was on duty patrolling the area near McCullens and Rudy. He had seen a suspicious vehicle in the area and was attempting to relocate it. He drove westbound on McCullens and turned southbound onto Rudy at between 5 and 10 miles per hour. P1 was crossing Rudy Street eastbound on the south side of McCullens in front of V1. P1 was in the prolongation about half way across the intersection. D1 said he struck P1 with the front bumper of V1. He stopped and cared for P1. P1 told D1 that her left leg hurt and she had prior medical issues with a twisted left knee. D1 said the intersection was dark at the time of the collision because the streetlight was not functioning.

I responded to St. Joseph Hospital where P1 had been transported. I spoke with P1 at the emergency room. P1 said she had been standing on the southwest corner of Rudy and McCullens talking with an acquaintance. The conversation ended and she turned to walk eastbound on McCullens crossing Rudy. The street light at the intersection was out at the time. She was about half way across Rudy in the prolongation when V1 struck her. She did not see V1 prior to the collision and could not estimate the speed. The initial impact was near her left knee. She fell onto the hood of V1 and then rolled onto the ground. P1 said she recently had a pinched nerve in her left leg but it was no longer an issue. She complained of pain in her left knee caused by the collision.

While I was still at the scene W1 (Lewis) approached me on foot. She told me she had been driving by the intersection of McCullens and Rudy when she saw a police car collide with a pedestrian. She said the police car had been driving westbound on McCullens and turned southbound onto Rudy. The car was moving about 15 mph when it collided with the pedestrian who was crossing Rudy eastbound on McCullens. The pedestrian was within the prolongation. The pedestrian flipped up onto the hood of the police car and then rolled into the street. The police car stopped. W1 continued and returned to the scene after collecting herself.

W2 (Hunt) called the police department on 4/17/11 to report he had seen a collision between a pedestrian and a police car. I called him back on 4/18/11. Hunt said he was walking his dog in the vicinity of Rudy and Allard Street when he saw two people walking eastbound on McCullens crossing Rudy. It was dark and the street light may have been out. He strained to look closer and noticed that one person was on the north side of McCullens and one was on the south side of McCullens. He heard a screech and saw a police car collide with the woman crossing Rudy on the south side of McCullens. The police car had been westbound on McCullens and turned southbound onto Rudy at about 25 mph. W2 did not remember seeing any headlights on the police car but said it was misty and it is possible he just did not notice them. W2 did not remember whether or not the street light was on or off.

PREPARED BY NAME AND NUMBER Cress 472	DATE 04/25/11	REVIEWER'S NAME <i>G. L. [Signature]</i>	DATE 5-2-11
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## NARRATIVE/SUPPLEMENTAL

DATE OF INCIDENT/OCCURRENCE 4/16/11	TIME (2400) 2220	NCIC NUMBER 1203	OFFICER I.D. NUMBER 472	NUMBER 4T11-227
"X" ONE <input checked="" type="checkbox"/> Narrative <input type="checkbox"/> Supplemental		"X" ONE <input checked="" type="checkbox"/> Collision Report <input type="checkbox"/> Other:		
CITY/COUNTY/JUDICIAL DISTRICT Eureka/Humboldt		REPORTING DISTRICT/BEAT 2		
LOCATION/SUBJECT Rudy at McCullens		STATE HIGHWAY RELATED <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
TYPE SUPPLEMENTAL ("X" APPLICABLE) <input type="checkbox"/> BA update <input type="checkbox"/> Fatal <input type="checkbox"/> Hit and run update <input type="checkbox"/> Hazardous materials <input type="checkbox"/> School Bus <input type="checkbox"/> Other:				

On 4/24/11 I spoke by phone with P1. She said three additional witnesses had been located. The three witnesses were friends of her son's. P1 provided me with contact information. I spoke by phone with W3 (Noel). He said he had just parked on the north curb of McCullens near Rudy when he saw a police car westbound on McCullens at about 20 mph. The police car did not have its headlights on. The police car abruptly turned southbound onto Rudy. There was a female pedestrian crossing eastbound on Rudy on the south side of McCullens. The pedestrian was about three-quarters of the way across Rudy in the prolongation when the police car collided with her. The car stopped and the officer attended to her needs. W3 said Christopher Battle and Cameron Roudebash were passengers in his vehicle and also saw the collision. Battle shares a phone with W3 but was not available at the time we spoke. W3 said he would ask Battle to call me. W3 provided me with Roudebash's phone number. When I called it the number had been changed. I called the forwarding number but it was out of service.

P1 also told me that after the collision a female neighbor named Renee Taytom told P1 that she had seen a police car with no headlights on driving on Allard Avenue moments before the collision. P1 said Taytom had subsequently been evicted from the McCullens Motel and did not leave forwarding information. There were no prior contacts with Taytom in the EPD computer system. I was unable to contact Taytom.

## OPINIONS & CONCLUSIONS:

### SUMMARY:

This collision occurred on Rudy Street just south of McCullens Avenue on 4/16/11 at about 2219 hours. D1 drove V1 westbound on McCullens and turned southbound onto Rudy Street at speeds somewhere between 5 and 25 miles per hour. P1 was crossing Rudy Street eastbound on the south side of McCullens Avenue in the prolongation. She was about half way across the southbound lane when V1 collided with P1 causing her to fall to the ground. D1 may not have had the headlights on, the streetlight may have been off at the time of the collision, visibility was likely poor due to rain and P1 was wearing dark clothing.

### AREA OF IMPACT:

The Area of Impact was determined by statements to be 18 feet west of the ECL of Rudy Street at 4 feet south of the SCL of McCullens Avenue.

### CAUSE:

PREPARED BY NAME AND I.D. NUMBER Cress 472	DATE 04/25/11	PREPARED BY NAME <i>[Signature]</i>	DATE 5-2-11
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## NARRATIVE/SUPPLEMENTAL

DATE OF INCIDENT/OCCURRENCE 4/16/11		TIME (2400) 2220	NCIC NUMBER 1203	OFFICER I.D. NUMBER 472	NUMBER 4T11-227
*X* ONE <input checked="" type="checkbox"/> Narrative <input type="checkbox"/> Supplemental		*X* ONE <input checked="" type="checkbox"/> Collision Report <input type="checkbox"/> Other:	TYPE SUPPLEMENTAL (*X* APPLICABLE) <input type="checkbox"/> BA update <input type="checkbox"/> Fatal <input type="checkbox"/> Hit and run update <input type="checkbox"/> Hazardous materials <input type="checkbox"/> School Bus <input type="checkbox"/> Other:		
CITY/COUNTY/JUDICIAL DISTRICT Eureka/Humboldt				REPORTING DISTRICT/BEAT 2	CITATION NUMBER
LOCATION/SUBJECT Rudy at McCullens				STATE HIGHWAY RELATED <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

D1 caused this collision by failing to yield the right-of-way to a pedestrian in an unmarked crosswalk in violation of VC 21950(a) which states that:

The driver of a vehicle shall yield the right-of-way to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise provided in this chapter.

**RECOMMENDATIONS:**

None

PREPARED BY NAME AND NUMBER Cress 472	DATE 04/25/11	REVIEWER'S NAME <i>G. White</i>	DATE 5-2-11
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**AGENDA SUMMARY**

**RE: REDEVELOPMENT AGENCY—  
EXTENSION OF EXCLUSIVE RIGHT TO  
NEGOTIATE (ERTN) AGREEMENT  
WITH MARTY & MICHELE  
L'HERAULT DBA OLD  
TOWN CARRIAGE COMPANY**

**FOR AGENDA DATE: June 21, 2011**

**AGENDA ITEM No.:**

7

**RECOMMENDATION:**

Authorize a 180-day Exclusive Right to Negotiate Agreement extension between the Eureka Redevelopment Agency and Marty and Michele L'Herauld dba Old Town Carriage Company, for the purchase and development of APN 001-013-016, located at 1<sup>st</sup> and "C" Streets.

**SUMMARY:**

In 2007, staff prepared a RFP, to purchase, relocate, preserve and/or develop the historic H.H. Buhne Warehouse. Notifications were sent to interested parties, two ads were placed in the Times Standard and the document was posted on the Agency/City website.

Old Town Carriage Company proposed disassembling the warehouse and creating a historic replica (using original design elements and building materials wherever possible) to house "Old Town Carriage Company".

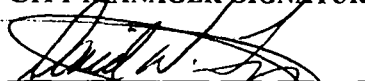
*Continued page 2*

**FISCAL IMPACT:**

No fiscal impact as a result of this recommendation.

**DEPARTMENT HEAD SIGNATURE:**


Cindy Trobitz-Thomas  
Director of Redevelopment

**CITY MANAGER SIGNATURE:**


David W. Tyson  
City Manager

**REVIEWED BY:****DATE:****INITIALS:**

City Attorney

6.16.11

wrb/sh

**Council Action:**

Ordinance No. \_\_\_\_\_

Resolution No. \_\_\_\_\_

<b>RE: REDEVELOPMENT AGENCY– EXCLUSIVE RIGHT TO NEGOTIATE (ERTN) AGREEMENT WITH MARTY &amp; MICHELE L'HERAULT DBA OLD TOWN CARRIAGE COMPANY</b>	<b>FOR AGENDA DATE: June 21, 2011</b>  <b>AGENDA ITEM NO.:</b>  <i>Page 2</i>
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**SUMMARY** *(continued)*

The proposed building and business will be an attraction for visitors and locals alike. The development will consist of an approximately 2,500 square foot building with an open space on the main floor to house 2-3 Victorian carriages and up to 3 box stalls to board the horses. The main floor will also contain a small retail space, approximately 500-600 square feet. The second floor will consist of a modest 2-bedroom living quarters to be owner occupied.

On August 7, 2007, following a review and recommendation by the Redevelopment Advisory Board, the Agency/Council approved a 180-day ERTN with Marty and Michele L'Herault. Extensions were approved on May 20, 2008, December 16, 2008, June 2, 2009, December 1, 2009 and July 6, 2010 and January 18, 2011. Following the completion of the Buhne Warehouse deconstruction and continuing carriage operation in Old Town, the attached extension request letter has been received from the developers.

The following items have been completed in anticipation of the project: The Agency and the developer have agreed on a purchase price for the property, a SBA 504 loan application is being prepared for submittal to the Arcata Economic Development Corporation and Architect Jack Freeman has been working with the City regarding preparation of the site and plans for the building. The carriage has been in operation since June 18<sup>th</sup> of 2010, and continues to be in operation in Old Town Eureka. The developers also continue to list their Midwest property for sale.

Included for your review is the listing for the Midwest property and the floor plans for the project.

**STAFF RECOMMENDATION:**

Authorize a 180-day Exclusive Right to Negotiate Agreement extension between the Eureka Redevelopment Agency and Marty and Michele L'Herault dba Old Town Carriage Company, for the purchase and development of APN 001-013-016, located at 1<sup>st</sup> and "C" Streets.

May 31, 2011

Cindy Trobitz-Thomas  
Redevelopment Director  
City of Eureka  
531 K Street  
Eureka, CA 95501

RE: Exclusive Right to Negotiate (ERTN)

Dear Ms. Trobitz-Thomas,

Please consider this letter as a request to extend our exclusive right to negotiate, (ERTN), with the City of Eureka for a period of 180 days.

We believe we have made substantial progress regarding the Buhne Warehouse project to be re-constructed at the corner of 1st and C Streets.


Enclosed is the floor plan for the upper and lower levels of the warehouse. More detailed specs and elevations will be generated by Jack Freeman, the project architect.

Regarding the sale of our property in the Midwest, please find enclosed the listing sheet from Century 21. With the installation of a new roof in the next few days, I am hopeful a suitable offer will come forward soon.

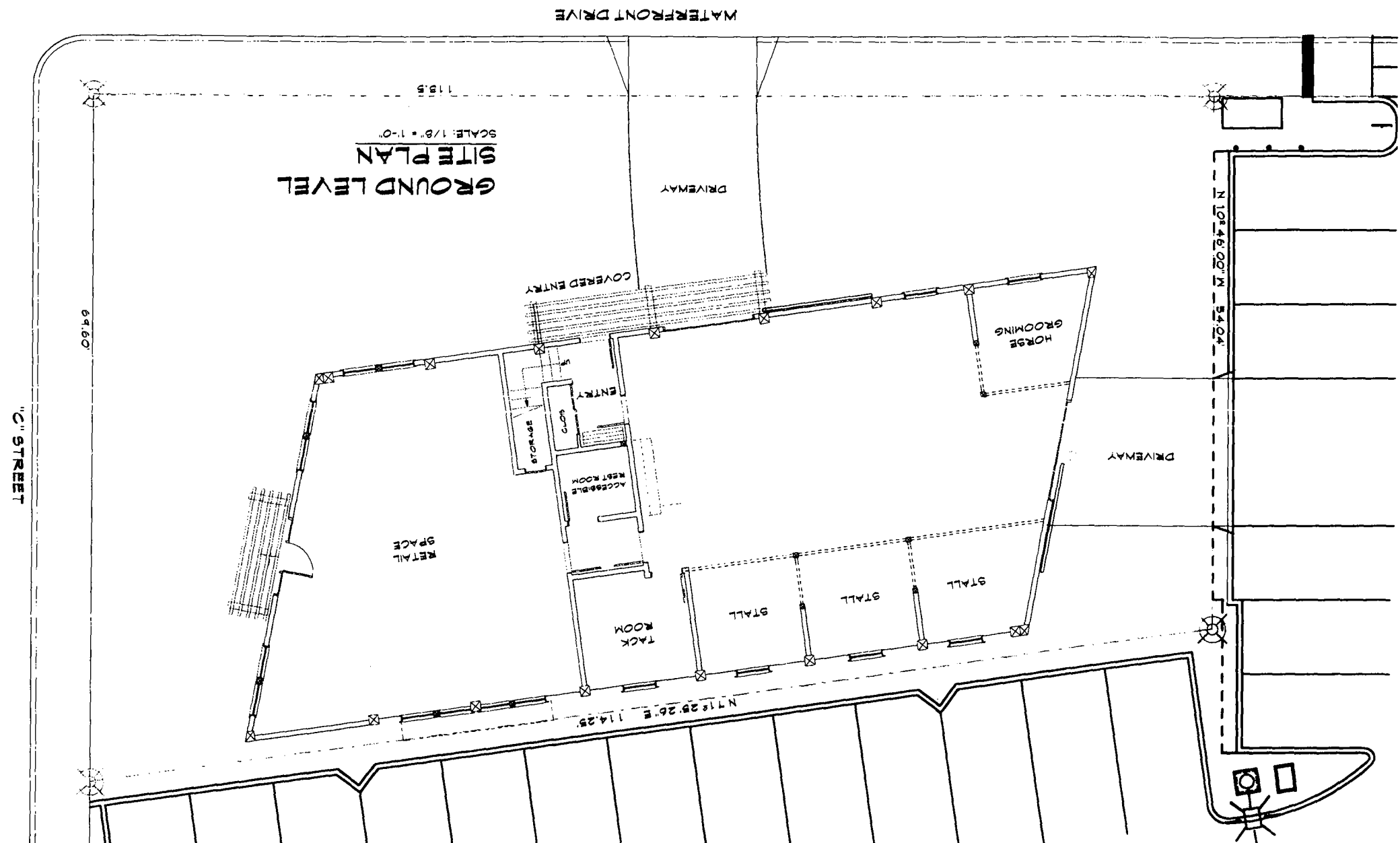
The Old Town Carriage Co. appreciates the patience the City of Eureka has maintained in this slow economic recovery and is working diligently to move all aspects of the Buhne Warehouse project forward.

It is very exciting to see the City's progress on the Fisherman's work terminal as well as the entire "C" Street Market Square Development.

Sincerely,

A handwritten signature in black ink that reads "Marty L'Herault". The signature is written in a cursive, flowing style.

Marty L'Herault  
Old Town Carriage Co.  
3004 N Street  
Eureka, CA 95501



GROUND LEVEL  
SITE PLAN

SCALE: 1/8" = 1'-0"

WATERFRONT DRIVE

DRIVEWAY

COVERED ENTRY

HORSE  
GROOMING

DRIVEWAY

RETAIL  
SPACE

TACK  
ROOM

STALL

STALL

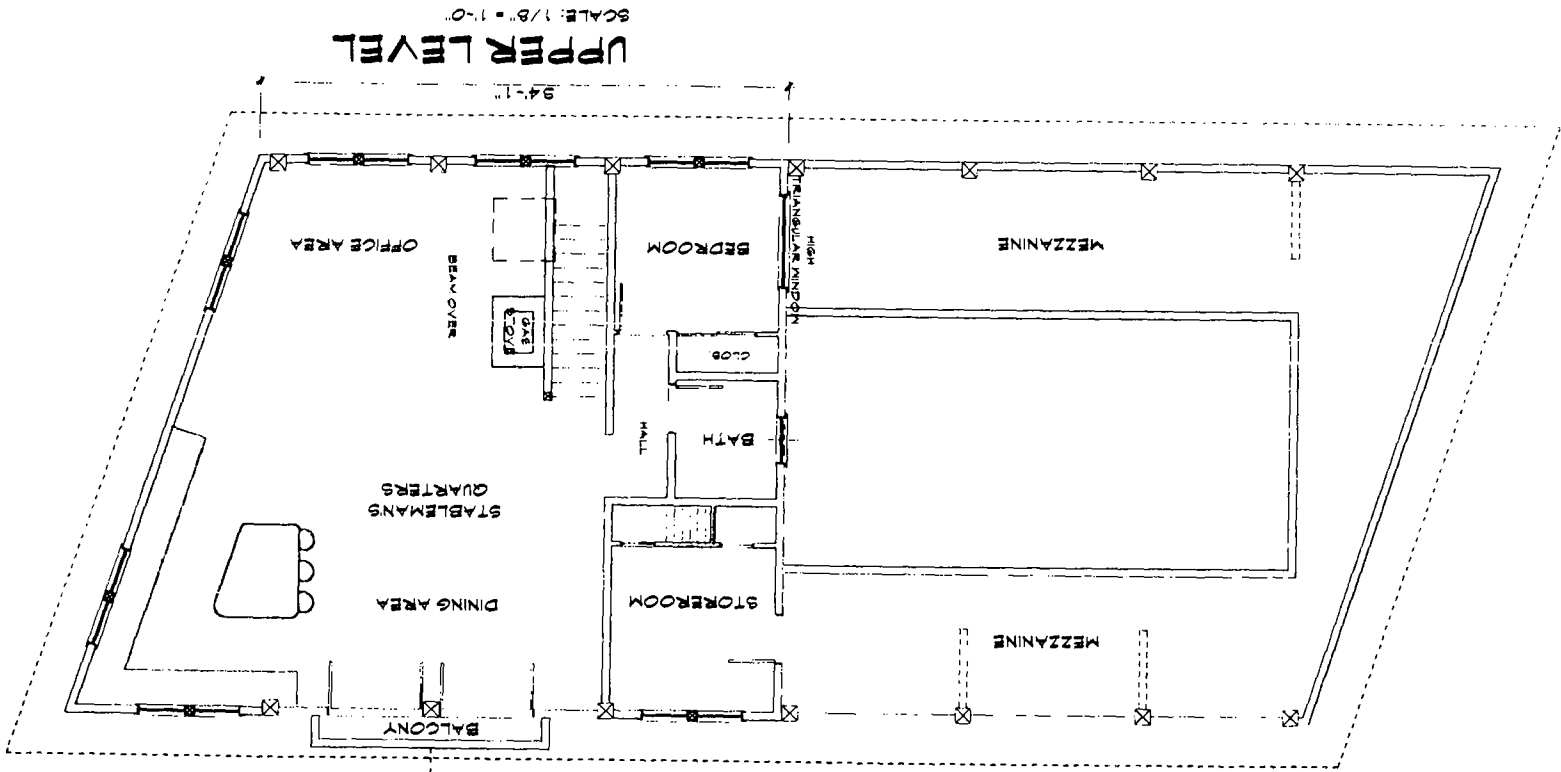
STALL

N 16° 25' 26" E 114.25'

N 10° 46' 00" E 54.04'

69.60'

"C" STREET






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 South Central Wisconsin Multiple Listing Service
 

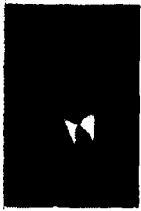
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Listing Agent

**MICHAEL ROESSLER**

Phone: 608-212-2006

Email:



mroessler@c21affiliated.com

Century 21 Affiliated Roessler

Phone: 608-798-4000

Website: www.c21affiliated.com

## Listing Details

**MLS#:** 1625743**Address:** 7116 Hwy H**Municipality:** Town of Arena**\$169,900****Listing Type:** Single Family**Bedrooms:** 3**Full Baths:** 1**Half Baths:** 0**Finished Area:** 1,250 sq ft**Type:** 1 1/2 story**Style:** National Folk/Farm house**Basement:** Unfinished, Crawl Space, Partial**Heating & Cooling:** Forced air**Water & Waste:** Private Disposal, Well**Garage:** Extra Storage Area**Exterior:** 3-season porch,**Features:** Storage building**Lot Size:** Over 5 to 10 Acres**Lot Desc.:** Pasture, Rural not in subdivision, Wooded**Subdivision:** None**High School:** River Valley**Middle School:** River Valley**Elementary School:** Arena**County:** Iowa**Net Taxes:** \$2,139 (2010)

ROOM	DIMENSION	LEVEL
Living Room	12x20	Main
Kitchen	13x15	Main
Master Bedroom	13x15	Upper
Bedroom 2	8x10	Upper
Bedroom 3	9x9	Upper
Office	9x15	Main
Laundry	7x11	Main

### Description

This is it! Affordable country home on 5 acres. Older barn-fenced pasture-outdoor riding area. Home offers 3 bedrooms, spacious kitchen & newer mechanicals. Beautiful private setting, shrouded by woods. River Valley Schools. Seller will install a new roof on house before closing.



The South Central Wisconsin MLS serves Dane, Sauk, Columbia, Rock, Dodge, Iowa, Green, Lafayette, Grant, and Richland Counties, as well as portions of Jefferson, Crawford, Vernon, Juneau, Monroe, Adams, Marquette, Green Lake, and Waushara Counties.

This website is updated once daily and contains just a portion of the data available for each listing. For complete up-to-the-minute information or to perform more detailed searches, contact your local REALTOR®.

**AMENDED  
EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT**

This **AMENDED EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT** ("Agreement") is entered into this 21<sup>st</sup> day of June, 2011, (the "Effective Date") by and between the Eureka Redevelopment Agency, a public body, corporate and politic ("Agency") and Marty and Michele L'Herault DBA Old Town Carriage Company ("Developer"). (Collectively, the Agency and the Developer shall be referred to as the "Parties").

**WITNESSETH**

**WHEREAS**, the parties have entered into an Exclusive Right To Negotiate Agreement dated January 18, 2011; and

**WHEREAS**, the parties wish to amend said Agreement,

**IT IS HEREBY** agreed between the parties as follows:

Section I.A of said Agreement is amended to read, "The Negotiation Period shall be extended for ONE HUNDRED EIGHTY (180) days from June 21, 2011 subject to the provisions of Section IX of this Agreement."

Except as expressly modified herein, all terms of the original Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF**, this Agreement has been executed by the Parties on the date first written above.

**AGENCY:**

**Eureka Redevelopment Agency**

**DEVELOPER:**

**Old Town Carriage Company**

By: \_\_\_\_\_  
**David W. Tyson**  
**Executive Director**

By: \_\_\_\_\_  
**Marty L'Herault**  
**Owner**



**ATTEST:**

---

**Pamela J. Powell**  
**Agency Secretary**

**APPROVED AS TO FORM:**

---

**William Bragg**  
**Acting Agency Attorney**

## **EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT**

This **EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT** ("Agreement") is entered into this 18<sup>th</sup> day of January, 2011, (the "Effective Date") by and between the Eureka Redevelopment Agency, a public body, corporate and politic ("Agency") and Marty and Michele L'Herault DBA Old Town Carriage Company ("Developer"). (Collectively, the Agency and the Developer shall be referred to as the "Parties").

The Agency and the Developer agree as follows:

### **I. NEGOTIATIONS**

#### **A. Length of Negotiation Period.**

Unless extended by mutual consent of the parties, the "Negotiation Period" shall be for one hundred eighty (180) days following the Effective Date, or as otherwise provided in Sections IX.D and IX.E of this Agreement, commencing on the date of this Agreement; provided, however, that the Negotiation Period may be terminated earlier pursuant to the provisions of Section IX.B of this Agreement.

#### **B. Good Faith Negotiations.**

The Agency and the Developer shall negotiate diligently and in good faith during the Negotiation Period towards a Disposition and Development Agreement ("DDA") providing for the disposition by the Agency to the Developer, of certain real property ("Property") described in the attached Exhibit A to this Agreement which is incorporated into this Agreement by this reference. The Parties contemplate that the Developer will construct a facility with a 2500 square-foot main floor to house Victorian carriages, up to three box stalls for horses and a small retail space; the second floor will consist of a modest two-bedroom, owner occupied living quarters (the "Project").

The Parties adopt by reference that certain proposal and each of its components submitted by the

Developer on July 6, 2007. The Parties also contemplate that the actual negotiations regarding the DDA will not commence until later in the Negotiation Period, after the Developer has submitted certain required information to the Agency and after the Parties have undertaken preliminary planning and analysis of the Project.

**C. Exclusive Negotiations.**

The Agency shall not negotiate with any other person or entity regarding development of the Property or any portion of the Property, or solicit or entertain bids or proposals to do so, during the Negotiation Period.

**II. CONSIDERATION**

**A. Down Payment for Administrative Services.**

No down payment shall be required upon execution of this document. In the event that consultants, mutually agreed to, or monies are required to pay for services, the Developer shall deposit any amount required within ten (10) days written notice from the Agency and any outside consultants determined to be necessary by the Agency.

**B. Payment Upon Entering Into DDA.**

The Developer acknowledges and understands that the Agency will require as a condition to entering into the DDA that the Developer must provide a down payment toward the acquisition or lease of the Property. The specific amount of the down payment will be determined during the first one hundred twenty (120) days of the Negotiation Period.

**III. SCHEDULE OF PERFORMANCE.**

The Developer shall perform the following activities during the Negotiation Period:

**A. Legal Status of Developer.**

Within sixty days (60) days of the date of this Agreement, the Developer shall provide to the Agency written statements identifying the Developer's principals and showing their respective interest. Further, Developer shall provide documentation of its legal existence and its authority to conduct business in the State of California.

**B. Project Submissions Within 120 Days.**

Within one hundred twenty (120) days of the Commencement Date, the Developer shall provide to the Agency the following information:

1. Name and person (persons) who will represent the Developer in negotiations with the Agency.
2. The Developer's previous relevant project experience. If there are joint venture partners, indicate their relevant experience separately.
3. A narrative description of the development proposed, including a description of its physical characteristics and estimated gross sq. ft. of the Project area by use.
4. A Funding Sources and Uses Table for the Project, which shall show the funding sources and uses for the Project including all anticipated development costs, land acquisition and public improvement cost. Such table shall also indicate the proportions of public assistance anticipated, its sources and its uses.
5. Estimated development and pre-development schedule including time required for design and City processing.
6. Income and Cash Flow Projections (next two years).
7. Pro Forma Balance Sheet with complete table of assumptions.
8. Personal Financial Statements of Principal Owner(s) (those with a 20% Ownership or

more) which will be stamped **CONFIDENTIAL** and submitted under separate cover.

9. Individual Federal Tax Returns of Principal(s) - past three years which will be stamped **CONFIDENTIAL** and submitted under separate cover.

10. Executed copies of any contracts which the Developer has entered into with its consultants for the Project, pertaining to architectural, engineering, environmental analysis and soil analysis.

11. Architectural and site plans for the Project; showing the building layout, proposed square footage, access points and parking layout areas. The plans should include conceptual building elevations that indicate the architectural style and integrity of the development. The plan should show adjacent land uses to illustrate the projects relationship to the surrounding area and land uses.

12. The Developer shall demonstrate to the Agency that it has lender, grantor and equity commitments for all financing necessary for the Developer to complete the Project, by submitting to the Agency written letters of commitment for all required funding. For any equity commitments which the Developer obtains, the Developer shall submit to the Agency current audited financial statements of the party providing such commitments prepared by an independent certified public accountant in accordance with generally accepted accounting principles. Commitments for any loans or grants required to complete the Project shall be valid for at least six months (6) months following the date which is one hundred twenty (120) days form the date of this Agreement.

13. Price and terms for purchase of Property.

#### **IV. AGENCY APPROVAL OF DEVELOPER SUBMISSIONS.**

Within thirty (30) days after the Agency receives any information or documents required to be submitted to it by the Developer pursuant to Section III of this Agreement, the Agency

shall advise the Developer of its acceptance or rejection of the information or documents. If the Agency rejects any information or documents submitted to it by the Developer, it shall grant the Developer an opportunity to revise its submission and to resubmit such revised submission to the Agency within a reasonable time frame. The Agency shall advise the Developer of its acceptance or rejection of any such revised submission within thirty (30) days of its receipt of the revised submission from the Developer.

**V. ENVIRONMENTAL REVIEW.**

If the Developer has fully performed under the terms and conditions of Section II and III of this Agreement in a timely manner, and the Agency has approved all required information submitted to it by the Developer, the Developer shall commence the process of environmental review, as required by Public Resources Code Section 21000 et. seq. ("CEQA").

**A. Selection of Consultant and Scope of Work**

The Agency shall select a consultant, with the consent of the Developer, to conduct the environmental review (the "Environmental Consultant") of the Project. The Agency shall negotiate the Environmental Consultant's contracts, scope of work and qualifications for review in consultation with the Developer. Upon approval of the contract/s, the Environmental Consultant shall begin preparation of the environmental review within thirty (30) days after the Developer meets all of the requirements of Section II and III of this Agreement.

**B. Consultant's Fees**

The Developer shall pay all costs and expenses for the required environmental review, including amounts in the approved contract between the Developer and the Environmental Consultant.

## **VI. NEGOTIATION OF DISPOSITION AND DEVELOPMENT AGREEMENT**

If the Developer has performed all of the requirements of Section II and III of this Agreement in a timely manner, the Agency shall deliver to the Developer a draft of the DDA within thirty (30) days after the Developer's completion of performance. The Developer and Agency shall negotiate diligently and in good faith until the one hundred eightieth (180) day of the Negotiation Period pursuant to Sections IX.C and IX.D below, or the Parties shall terminate this Agreement.

The Developer understands and agrees it is solely responsible for obtaining all governmental permits for the project, at the Developer's sole expense.

## **VII. AGENCY RESPONSIBILITIES**

The Developer understands and acknowledges that any DDA resulting from the negotiations arising from this Agreement shall become effective only if and only after such DDA has been considered and approved by the Agency Board and City Council of the City of Eureka at a public hearing called for that purpose.

## **VIII. RIGHT OF ENTRY**

### **A. Right of Entry**

Prior to execution of a DDA the Developer has requested the right to enter the Property in order to perform due diligence. The Agency hereby grants to the Developer a right of entry to enter the Property for the purposes of conducting inspections, and performing other due diligence work. Prior to entering the Property, the Developer shall provide the Agency with evidence of general liability insurance with limits not less than Two Million Dollars (\$2,000,000) for each occurrence combined single limit for Bodily Injury and Property Damage, including coverage for Contractual Liability, Personal Injury, Broadform Property Damage, Products and Completed Operations. Developer shall

be responsible for restoring the Property to its original condition prior to any entry other than as provided below. Developer shall indemnify, defend and hold the Agency and its Directors, officers, employees and agents harmless from any and all claims, liabilities, damages, losses, expenses, costs and fees (including attorney's fees and costs) which may proximately arise out of the Developer's entry upon the Property or the investigations and tests which the Developer may conduct. Developer shall provide the Agency with copies of any reports or studies conducted regarding the Property at such time as Developer receives such reports.

## **IX. FAILURE TO PERFORM UNDER THIS AGREEMENT**

### **A. Time is of the Essence**

The Agency and the Developer hereby acknowledge that time is of the essence to this Agreement, such that the Developer's failure to fully perform according to the terms and conditions of this Agreement shall be considered a material breach of this Agreement.

### **B. Early Termination**

On or before the date which is one hundred eighty (180) days following the Commencement Date, either party may terminate this Agreement if it determines that development of the Property in the manner contemplated by this Agreement is not financially feasible.

### **C. Notice to Developer of Breach**

In the event that the Developer fails to perform pursuant to the terms and conditions of this Agreement, the Agency may declare the Developer in default and terminate this Agreement upon fifteen (15) days written notice to Developer.

### **D. Agency Discretion to Extend Time for Performance**

Notwithstanding the above, if the Agency determines that it is in the best interests of



the Agency, the Agency may extend the time for Developer's performance of any of the terms and conditions of this Agreement, for up to one hundred twenty (120) days. The Agency shall have sole discretion to grant an extension to the Developer and in no event shall this provision be construed so as to convey any right or entitlement to an extension for performance to the Developer.

**E.     Extension of Time to Complete Legal Requirements**

In the event that the Developer has fully performed under the terms and conditions of this Agreement in a timely manner, and in the event that the Parties have negotiated a preliminary DDA over which the Parties have reached agreement about its terms, the Agency shall extend the Negotiating Period by the amount of time necessary to complete the environmental review required by CEQA, and the amount of time necessary to give public notice of consideration of adoption of the DDA pursuant to Health and Safety Code Section 33433.

**X.     HOLD HARMLESS**

The Developer hereby covenants, on behalf of itself, its successors and assigns, to indemnify, defend save and hold harmless and defend the Agency, its elected officials, agents, directors, staff, volunteers and designated representatives, from all claims, demands or actions arising from the Developer's actions with respect to this Agreement, including but not limited to the Agency' s actions or lack of actions with respect to proposals submitted to it by the Developer both prior and subsequent to this Agreement, the Agency' s action or lack of actions with respect to the Property, the Agency' s negotiation and execution of this Agreement, any prior negotiations and agreements by and between the Parties and negotiation and execution of a DDA for the Project.

## **XI. LIMITATIONS**

By its execution of this Agreement, the Agency is not committing itself to or agreeing to undertake (a) commitment or reservation of public funds, revenues or reserves to the Project; (b) approval of the Project by the Agency; (c) any other acts or activities requiring the subsequent independent exercise of discretion by the Agency, or any agency or department of the City.

This Agreement does not constitute a disposition of property of the Agency, and does not require a public hearing. Execution of this Agreement by the Agency is merely an agreement to enter into a period of exclusive negotiations according to the terms of this Agreement, and reserves final discretion and approval by the Agency as to any DDA and all proceedings and decisions in connection with any DDA.

This Agreement also shall not prevent the Agency from providing any person or entity with any information regarding the Property which is contained in the public records.

## **XII. ATTORNEYS' FEES**

In the event any action is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to an award of attorney's fees and experts' fees incurred in connection with such action.

**IN WITNESS WHEREOF**, this Agreement has been executed by the Parties on the  
date first written above.


**AGENCY:**

**Eureka Redevelopment Agency**

By: \_\_\_\_\_

Its: Executive Director

**ATTEST:**

\_\_\_\_\_

**Pamela J. Powell**  
**Agency Secretary**

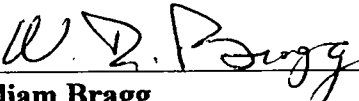
**DEVELOPER:**

**Old Town Carriage Company**

By: \_\_\_\_\_

Its: Owner

**APPROVED AS TO FORM:**

\_\_\_\_\_

**William Bragg**  
**Acting Agency Attorney**

## **EXHIBIT A**

### **DESCRIPTION OF PROPERTY**

#### **LEGAL DESCRIPTION**

APN 001-013-016, containing approximately 7,017 square feet of land, and located on the southwest corner of First and "C" Streets in Eureka.

## **EXHIBIT B INSURANCE REQUIREMENTS**

The demolition and salvage contractor shall furnish the Agency with a certificate of insurance prior to commencement of any demolition and salvage work as evidence of the following insurance obtained at Contractor's expense, applicable to all operations under the demolition and salvage contract. Coverage shall be subject to Agency's approval and shall be provided by companies approved to do business in California, with AM Best's ratings of no less than A: VII (however, worker's compensation insurance provided by the California State Compensation Insurance Fund shall be permitted), and shall be provided for the coverages and minimum amounts described below:

1. Worker's Compensation Insurance as required by California statute and Employer's Liability a limit not less than \$2,000,000 per occurrence.
2. Commercial General Liability, or equivalent coverage to include Blanket Contractual Liability, Employees as Additional Insured, Completed Operations-Products Liability, and deletion of any exclusion pertaining to explosion, collapse, and underground property damage hazards, Personal Injury Liability endorsement, Property Damage Liability including Broad Form Property Damage endorsement.

The minimum limits of liability shall be:

<u>Contractor</u> : \$2,000,000	Combined Single Limit per Occurrence Bodily Injury and Property Damage.
\$2,000,000	General Aggregate Limit.
\$2,000,000	Products and Completed Operations Aggregate.

Products and Completed Operations Insurance shall be maintained for a minimum period of two years after final payment, and contractor shall continue to furnish evidence of such coverage to Agency on an annual basis during the aforementioned period.

Liability Insurance shall be written to cover all claims incurred during the term of this Contract or out of any work performed pursuant to the Contract, regardless of when such claim shall be first made against Owner and/or Contractor. Should any required liability insurance be written on a claims-made basis, Contractor shall continue to provide such evidence of coverage for four years after completion and acceptance of the demolition and salvage work.

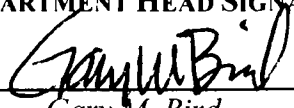
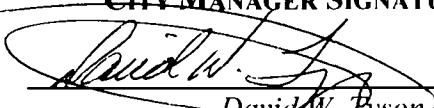
3. Commercial Automobile Liability Insurance applicable to any owned, non-owned or hired vehicle in limits not less than the following:

\$2,000,000 per occurrence Combined Single Limit of Bodily Injury and Property Damage Liability.

4. The Agency shall be included as additional insured under the Commercial General Liability and Commercial Auto Liability policies carried by the Contractor, and the Agency shall be provided with copies of the endorsements to the policies confirming such inclusion as additional insured. The policies shall also be endorsed to state that the coverage shall be primary and any liability coverage maintained by the Agency shall be considered excess, and a copy of such endorsement shall also be provide to the Agency.

5. The certificate of insurance furnished to the Agency by the Contractor shall state that the Commercial General Liability, Automobile Liability and Workers' Compensation policies shall not be canceled or coverage reduced without first providing thirty (30) days prior written notice by registered mail to the Agency and the Developer. The Contractor's policies shall be endorsed to specifically recognize this obligation to provide written notice and the Agency shall be provided with a copy of this endorsement to accompany the certificate.

# AGENDA SUMMARY

<b>RE: REQUEST FOR EXCEPTION TO THE HIRING FREEZE</b>	<b>FOR AGENDA DATE: JUNE 21, 2011</b>  <b>AGENDA ITEM No.:</b> <span style="font-size: 1.5em; margin-left: 20px;">8</span>	
<b>RECOMMENDATION:</b>  1. Approve an exception to the hiring freeze for the Fire Services Officer position.		
<b>SUMMARY:</b> With the adoption of the FY 03/04 budget, the City Council authorized a hiring freeze for all non-public safety positions. Any exceptions to the hiring freeze must be approved by the Council.  Due to a pending resignation on July 1, 2011, the Fire Department has requested authorization to fill the position of Fire Services Officer in their department. The current Fire Services Officer has accepted a position within the Eureka Police Department, thus creating the vacancy in the Fire Department. The position is considered a non-public safety position. This position is already included in the FY 10/11 budget and is paid out of the <u>Internal Operations Fund</u> .  This position serves an important function in the City's Fire Department. Under general supervision, the Fire Services Officer provides a variety of technical administrative functions and field work to support fire and emergency operations, and coordinates programs, projects and services with other City departments, divisions and outside agencies. The position coordinates and oversees the Nuisance Abatement Program, manages the Emergency Operations Center, administers the fee recovery program, acts as a City liaison on fire related topics, coordinates the Department records system, and performs other duties as assigned.  The Fire Department requests Council determine whether to exempt this position from the hiring freeze and authorize it to be filled.		
<b>FISCAL IMPACT:</b> The cost of filling this position is \$61,704 annually, fully benefitted and based on a Step 3 salary rate from the <u>Internal Operations Fund</u> . This position is already included in the FY 10/11 budget.		
<b>DEPARTMENT HEAD SIGNATURE:</b>   _____ Gary M. Bird Personnel Director	<b>CITY MANAGER SIGNATURE:</b>   _____ David W. Pyson City Manager	
<b>REVIEWED BY:</b> Fire _____ Finance _____	<b>DATE:</b> <u>6/14/11</u> _____	<b>INITIALS:</b> <u>BG</u> _____
<b>Council Action:</b>  Ordinance No. _____ Resolution No. _____		

**AGENDA SUMMARY****RE: EUREKA PAYMENTS CREDIT CARD  
PROCESSING CONTRACT****FOR AGENDA DATE: JUNE 21, 2011****AGENDA ITEM No.:**

9

**RECOMMENDATION:**

1. Approve the contract with Eureka Payments as the City's credit card transactions possessing company, and
2. Authorize the Finance Director to sign all documents related to the agreement.

**SUMMARY:**

Finance department staff requests a change in credit card processing companies from Electronic Transaction Services Company (ETS), to Eureka Payments due primarily to customer service issues and a desire to give business to a local firm rather than to a national firm from the east coast

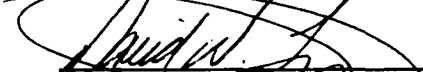
Eureka Payments was founded in 2010 by a team of highly experienced industry veterans.. Awarding the contract to Eureka Payments would improve customer service and promote job growth in our community. The company also has a strong connection to this community evidenced by their Community Affinity Program in which 15% of income from the city's payment processing would be donated to a non-profit program selected by the City. Staff recommends Sequoia Park Zoo Foundation as recipient of program donations.

**FISCAL IMPACT:**

Annual savings of \$600 in service charges is estimated.

**DEPARTMENT HEAD SIGNATURE:**


Paul L. Rodrigues  
Finance Director

**CITY MANAGER SIGNATURE:**


David W. Tyson  
City Manager

**REVIEWED BY:****DATE:****INITIALS:**

City Attorney

\_\_\_\_\_

\_\_\_\_\_

**Council Action:**

Ordinance No. \_\_\_\_\_

Resolution No. \_\_\_\_\_





Thank you for considering Eureka Payments for your payment processing needs! We have completed an analysis of the merchant statements you have sent over from your current provider and the results are below. You will notice the additional expense of using AuthorizeNet as required by your current POS provider. The additional cost of this interface is more than compensated for with the reduction of the merchant account fees as shown in the attached analysis.

	Current Processor	Eureka Payments
Interchange Fees	AT COST	AT COST
Dues / Assessments (AT COST)	0.11%	0.11%
Discount %	0.20%	0.12%
Auth Fee	\$0.15	\$0.12
AuthorizeNet Monthly Fee	NA	\$15.00
AuthorizeNet Trans Fee	NA	250 free/month – then \$0.05
Monthly Fees	\$7.50	\$7.50

**Based on these numbers we would show an estimated savings as follows:**


**Feb 2011 = \$51.32**

**Approx \$600+ annual savings**

In addition to the cost savings, you will be service by our local team. At our location in Eureka we stock over 150 credit card terminals and are able to respond to your needs very quickly. Our full time customer service staff (also located in the 707 area code) is very effective and ready to assist with any questions you have. Once we establish your account we will personally reprogram equipment at your location during your off hours with no impact to your daily operations.

As your local provider we are have a strong connection to our community. This is evident by our Community Affinity Program. There is no cost to participate, you simply select a non-profit organization to which we will contribute 15% of our income on from your payment processing! See attached for eligible organizations.

Please contact me direct with ANY questions. I have also included a reference sheet of several merchants we work with locally and nationally should you feel the need to check on these

  
Steve Kimberling  
EVP, Sales & Marketing  
Eureka Payments, LLC  
P 877-476-0570 ~ F 707-476-0574

**537 G Street Suite 201 ~ Eureka, CA 95501**  
**877-476-0570 ~ info@eurekapayments.com**



# EUREKA Payments

Welcome to Eureka Payments,  
Your Local Payment Experts!

Eureka Payments is your source for quality, affordable, and complete payment processing services. Our executives have more than 30 years combined experience assisting merchants of all types with their payment processing needs. We strive to exceed expectations and look forward to working with you!

~ Unmatched Experience In The Payments Industry  
~ Supporting A Wide Variety Of Payment Devices  
~ Customized Pricing Based On YOUR Needs

## Traditional Terminals



VeriFone ~ Nurit  
Hypercom  
Exadigm ~ Ingenico

## Wireless Terminals



PaySaber for iPhone  
WAY Systems  
Nurit ~ VeriFone

Process from  
BlackBerry/Windows Mobile

476 - 0571

# 707-476-0570

# www.EurekaPayments.com

## What our clients are saying...

"Local ingenuity meets superb service at Eureka Payments. At Mantova's Two Street Music we were getting hammered by high transaction-use rates. Eureka Payments saved the day, and now:

We are saving money. Thanks Eureka Payments!"



*Anthony Mantova*

## Why Eureka Payments?

- Local Customer Service  
(In the 707 Area Code)
- Highly Experienced Management
- In Person Installations
- eCommerce Payment Solutions
- Mobile Processing Solutions
- Committed To Our Community

## Integrity you can count on...



## Eureka Based Team



**Ken Musante**  
President



**Steve Kimberling, EVP**  
Sales & Marketing



**Scott Bartlett, SVP**  
Chief Operating Officer

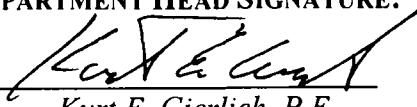
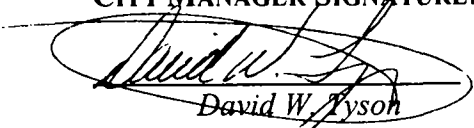
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**AGENDA SUMMARY**

<b>RE: HARRIS STREET SIGNALIZATION</b> <b>(AT E AND F STREET INTERSECTIONS)</b> <b>Bid No. 2010-03</b>	<b>FOR AGENDA DATE: JUNE 21, 2011</b>  <b>AGENDA ITEM No.:</b> <u>10</u>	
<b>RECOMMENDATION:</b> 1. Declare Smith Electric the low bidder for the Harris Street Signalization Project. 2. Award Bid No. 2010-03 to Smith Electric for the amount of \$172,908.00, and approve \$185,000 for construction, which includes a contingency of approximately 7%.		
<b>SUMMARY:</b>  <p>On April 7, 2009 Council authorized the acceptance the Highway Safety Improvement Program Grant. The installation of southbound left turn lanes with separate signal phasing on "E" and "F" Streets at Harris Street has previously been identified as a project in the Capital Improvement Program. Unprotected left turning movements at these locations have contributed to a history of backups, congestion, and multiple collisions.</p> <p>The project was advertised on May 22, 2011 and bids were opened on June 14, 2011. Two bids were received. Smith Electric of Eureka, CA was the low bidder. Staff reviewed and evaluated the bids and determined the low bid to be in conformance with project requirements.</p> <p>Staff recommends that Council award construction of the Harris Street Signalization, Bid No. 2010-03, to Smith Electric for the amount of \$172,908.00, and approve \$185,000.00 for the construction contract plus contingency.</p> <p>Construction of this project is expected to be completed in October 2011.</p> <p>Prepared by: <u>Scott Ellsmore, Engineering Technician</u> <i>SE</i></p>		
<b>FISCAL IMPACT:</b> Expenditures: \$129,600.00 from account 227-47000-7251 PJ 460-227 (HSIP grant); \$14,400.00 from account 227-47000-7251-PJ460-M already included in the budget. Appropriate \$41,000 from Proposition 1B Funding, to account 227-47000-7251-PJ460-1B		
<b>DEPARTMENT HEAD SIGNATURE:</b>  Kurt E. Gierlich, P.E. City Engineer	<b>CITY MANAGER SIGNATURE:</b>  David W. Tyson City Manager	
<b>REVIEWED BY:</b> City Attorney Finance Public Works Assist. City Mgr.	<b>DATE:</b> <u>6-16-11</u> <u>6-16-11</u> <u>6-16-11</u>	<b>INITIALS:</b> <u>BB</u> <u>PR</u> <u>BY</u>
<b>Council Action:</b>   <div style="display: flex; justify-content: space-between; margin-top: 20px;"> <span>Ordinance No. _____</span> <span>Resolution No. _____</span> </div>		

**AGENDA SUMMARY****RE: SALT MARSH MITIGATION PROJECT  
PROFESSIONAL SERVICES CONTRACT****FOR AGENDA DATE: JUNE 21, 2011****AGENDA ITEM NO.:**

11

**RECOMMENDATION:**

1. Authorize staff to execute a contract with SHN Consulting Engineers and Geologists, Inc. for Professional Engineering Services (Restoration Specialist/Landscape Contractor) for the Salt Marsh Mitigation Project, Phase I in the amount of \$98,000.

**SUMMARY:**

The City's Inner Channel Dock and Boardwalk Revitalization Project resulted in wetland impacts that required mitigation pursuant to the coastal development permit issued for the project by the State. In order to fund the mitigation, on November 2, 2010, Council and Agency Board approved an expenditure of \$153,000 in excess Redevelopment EPFA Series "A" Lease Revenue Bond funds for Phase I of the Salt Marsh Mitigation Project, which covers all the work required to be done by a Restoration Specialist and Landscape Contractor. The remainder of the excess Redevelopment EPFA Series "A" Lease Revenue Bond funds (\$55,000) for Phase I will be allocated for related design costs, pre-construction and construction assistance.

Although there are two Phases to the Project, the Phases will run concurrently. Phase II of the project will include the grading and clearing of the site; Phase II will go out to bid July 2011. An additional \$150,000 of Redevelopment Funding has been requested for Phase II of the Project in the 2011/2012 budget.

*Prepared by Lisa Savage, Project Manager*

*Continued page 2*

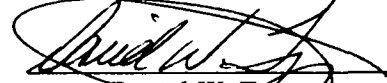
**FISCAL IMPACT:**

Expenditures: \$98,000.00 (includes 15% contingency) from # 435-47000-7819-PJ 427-Bond.

**DEPARTMENT HEAD SIGNATURE:**

  
Kurt E. Gierlich  
City Engineer

**CITY MANAGER SIGNATURE:**

  
David W. Tyson  
City Manager

**REVIEWED BY:**

City Attorney  
Finance  
Public Works  
Redevelopment  
Community Development  
Assistant City Manager

**DATE:**

6-15-11  
6-15-11  
6-15-11  
6-16-11  
6-15-11

**INITIALS:**

BB  
PR  
BAC  
CT  
LS

**Council Action:**

Ordinance No. \_\_\_\_\_

Resolution No. \_\_\_\_\_

**RE: SALT MARSH MITIGATION PROJECT  
PROFESSIONAL SERVICES CONTRACT**

**FOR AGENDA DATE: JUNE 21, 2011**

**AGENDA ITEM NO.:**  
*Page 2*

**SUMMARY** *(continued)*

Included in the scope of work for Phase I is project setup, pre-construction coordination, reference site establishment, seed collection/plant propagation, monitoring during grading activities, erosion control, construction season monitoring, invasive species eradication, salt marsh plant installation, as built report, and monitoring, annual maintenance, and annual reports for five (5) years.

On March 27, 2011, the City advertised a Request for Statement of Qualifications for the Restoration Specialist/Landscape Contractor. The Statement of Qualifications was due by April 15, 2011. One Statement of Qualifications was received from SHN Consulting Engineers and Geologists, Inc. Staff reviewed and evaluated the proposal and is satisfied with the scope of work and fee.

The Statement of Qualifications provides SHN in the role of Restoration Specialist and Samara Restoration (subcontractor) as the Landscape Contractor. The responsibilities specific to SHN and Samara Restoration are outlined below.

**SHN Consulting Engineers and Geologists, Inc.**

- Project Setup
- Pre- Construction Coordination
- Reference Site Establishment
- Monitoring During Grading Activities
- Construction Season Monitoring
- Invasive Species Eradication
- As Built Report
- Monitoring (5 years)
- Annual Reports (5 years)

**Samara Restoration**

- Seed Collection and Plant Propagation
- Erosion Control
- Invasive Species Eradication
- Salt Marsh Plant Installation
- Annual Maintenance (5 years)

Staff recommends that Council authorize staff to execute a contract with SHN Consulting Engineers and Geologists, Inc. for Professional Engineering Services (Restoration Specialist/Landscape Contractor) for the Salt Marsh Mitigation Project, Phase 1 in the amount of \$98,000.

**AGENDA SUMMARY**

**RE: REDEVELOPMENT AGENCY–  
EXCLUSIVE RIGHT TO  
NEGOTIATE (ERTN) AGREEMENT  
WITH MISSION: SWIMPOSSIBLE**

**FOR AGENDA DATE: June 21, 2011**

**AGENDA ITEM No.:**

13

**RECOMMENDATION:**

1. Adopt a Joint Resolution of the City Council of the City of Eureka and Eureka Redevelopment Agency approving an Exclusive Right to Negotiate Agreement (ERTN) with Mission: SwimPossible, a not-for-profit organization, for the purchase and development of Agency property APN 002-241-013 located on Waterfront Drive, and known as the Halvorsen site.
2. Authorize execution of a one year ERTN between the Eureka Redevelopment Agency and Mission: SwimPossible.

**SUMMARY:**

At the March 28<sup>th</sup> meeting of the Redevelopment Advisory Board (RAB), the board heard a presentation by Brian Nunn and other members of the group Mission: SwimPossible. The group has been working toward building a public pool in Eureka and is interested in the Halvorsen Site (former Carson Mill Site).

Tina Christensen of Coldwell Banker Cutten Realty stated that one of her clients is also interested in the site and had made an offer to the City/Agency on the property. She requested that a Request for Proposals (RFP) be prepared, advertised and circulated to other developers to determine if there was other interest in the property.

The RAB voted unanimously to issue an RFP for the site. The RFP was distributed on April 18, 2011 with a submission deadline of May 9, 2011. A display ad also ran in the Times Standard. On May 24, 2011, the RAB considered the submitted proposals.

*Continued page 2*

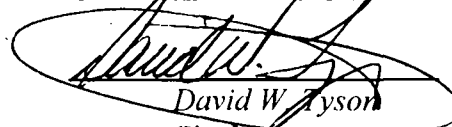
**FISCAL IMPACT:**

No fiscal impact as a result of this recommendation.

**DEPARTMENT HEAD SIGNATURE:**


Cindy Trobitz-Thomas

Director of Redevelopment & Housing

**CITY MANAGER SIGNATURE:**


David W. Tyson

City Manager

**REVIEWED BY:****DATE:****INITIALS:**

City Attorney

\_\_\_\_\_

\_\_\_\_\_

**Council Action:**

Ordinance No. \_\_\_\_\_

Resolution No. \_\_\_\_\_

**RE: REDEVELOPMENT AGENCY–  
EXCLUSIVE RIGHT TO  
NEGOTIATE (ERTN) AGREEMENT  
WITH MISSION: SWIMPOSSIBLE**

**FOR AGENDA DATE: June 21, 2011  
AGENDA ITEM No.:**  
*Page 2*

**SUMMARY** *(continued)*

Two proposals were received as of the due date. One was from the Mission: SwimPossible group and the other from Travis Schneider for the Halvorsen Village on Humboldt Bay. Due to the length of the RFP and proposals, the documents are available for review in Redevelopment. A brief summary of each proposal follows:

**Mission: SwimPossible**

Legal Status: Non-profit under Humboldt Area Foundation.

Anticipated Funding Sources: Funding will be provided through a combination of gifts, in kind donations, private investors, bonds and corporate sponsors.

Previous Experience: Individuals involved in the non-profit have development experience, but the group assembled for this project has not completed a development.

Estimated Cost: The project is estimated to cost \$25.5 million plus fair market value for the property (as determined by an appraisal). The last appraisal was completed in 2004 and would need to be updated.

Project Description: The project consists of a 70,000 square foot center with 3 pools, a gym, restaurant and retail and includes 250 parking spaces. Anticipated programs would include Learn to Swim, Aquatic Rehab, Community Health and Wellness, Swim Teams, Aquatic Recreation and Exercise, Special Needs, Aquatic Safety and Hosting Events.

Job Creation: There would initially be 35 jobs, without benefits to start.

Contingencies: Financing, CEQA, Coastal Development Permit, complete Brownfields cleanup.

Completion estimate: May 2014

Economic Benefit: Hosting of 8 events each year with an average of 500 families visiting for the weekend. Total yearly spending is estimated to be \$3,228,000. Transient occupancy tax is estimated to be \$36,000 per year. Net sales tax revenue to the City generated from other spending is estimated to be \$25,000 per year.

**Halvorsen Village**

Legal Status: Sole proprietorship

Anticipated Funding Sources: Financing for each of the 5 phases is anticipated to be provided by a private mortgage broker.

<b>RE: REDEVELOPMENT AGENCY– EXCLUSIVE RIGHT TO NEGOTIATE (ERTN) AGREEMENT WITH MISSION: SWIMPOSSIBLE</b>	<b>FOR AGENDA DATE: June 21, 2011 AGENDA ITEM No.:</b> <i>Page 3</i>
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**SUMMARY** *(continued)*

Previous Experience: Mr. Schneider is an engineer and a licensed contractor. His extensive past projects have included subdivisions, multi-family developments and an RV park. A list of Mr. Schneider's projects is included in his proposal. The Agency does not have a track record working with Mr. Schneider.

Estimated Cost:

Phase 1 - RV Park \$1,041,000

Phase 2 - Mixed Use Waterfront \$3,677,751

Phase 3 – Mixed Use Waterfront West \$4,288,284

Phase 4 – Hotel/Retail \$13,744,615

Phase 5 – Mixed Use South \$5,502,882

Mr. Schneider proposes to pay \$600,000 for the entire site.

Project Description: Halvorsen Village provides a unique blend of commercial, residential, retail and hospitality space that attracts visitors while providing residents with a pedestrian friendly, high density live-work-play community.

Job Creation: Total direct jobs created by the completion of the 5 phases in 2033 are 260.

Contingencies: All entitlements for the 5 phases shall be in place prior to the close of escrow. This includes a Coastal Development Permit with a recorded Notice of Determination. Separate building permits will be obtained after the close of escrow prior to the construction of each phase of the project.

Completion estimate: All 5 phases are estimated to be completed by 2033.

Economic Benefit: Property taxes of \$57,809, sales taxes of \$68,212 and TOT of \$49,210 at build out in 2133.

**RAB Action and Staff Recommendation**

At their meeting of May 24, 2011, the RAB heard presentations on each of the projects, discussed the projects and unanimously voted to recommend a one year ERTN with Mission: SwimPossible. They also requested that the Developer provide a status report to the RAB at six and nine months from the date of ERTN approval. If the developer is unable to secure funding within the one year time period the RAB will recommend to the City Council and Agency Board that the ERTN be withdrawn.



**RE: REDEVELOPMENT AGENCY--  
EXCLUSIVE RIGHT TO  
NEGOTIATE (ERTN) AGREEMENT  
WITH MISSION: SWIMPOSSIBLE**

**FOR AGENDA DATE: June 21, 2011**

**AGENDA ITEM No.:**

*Page 4*

Based upon the action taken by the RAB, the following is recommended:

1. Adopt a Joint Resolution of the City Council of the City of Eureka and Eureka Redevelopment Agency approving an Exclusive Right to Negotiate Agreement (ERTN) with Mission: SwimPossible, a not-for-profit organization, for the purchase and development of Agency property APN 002-241-013 located on Waterfront Drive, and known as the Halvorsen site.
2. Authorize execution of a one year ERTN between the Eureka Redevelopment Agency and Mission: SwimPossible.

**COUNCIL RESOLUTION 11-\_\_\_\_**  
**REDEVELOPMENT AGENCY RESOLUTION 11-\_\_\_\_**

**A JOINT RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA AND  
EUREKA REDEVELOPMENT AGENCY APPROVING AN EXCLUSIVE RIGHT TO  
NEGOTIATE AGREEMENT WITH MISSION: SWIMPOSSIBLE**

**WHEREAS**, the Eureka Redevelopment Agency ("Agency") on December 4, 1973, adopted the Eureka Tomorrow Redevelopment Plan (the "Redevelopment Plan"); and

**WHEREAS**, the Agency owns the property, known as APN 002-241-013, containing approximately 8.41 acres of land, and located between Waterfront Drive and Humboldt Bay between "L" and "T" Streets, within the project area defined in the Redevelopment Plan (the "Property"); and

**WHEREAS**, Mission: SwimPossible (the "Developer") desires to construct a 70,000 square foot aquatic center with 3 pools, a gym, restaurant and retail, including 250 parking spaces. (the "Improvements"); and

**WHEREAS**, the Developer desires the Agency to hold the Property off the market while the Developer and the Agency attempt to negotiate a Disposition and Development Agreement ("DDA") for the Building; and

**WHEREAS**, the Agency wishes to enter into an Exclusive Right to Negotiate Agreement (the "Agreement") with the Developer under which the Agency agrees to hold the Property off the market for Three Hundred Sixty (360) days while the Agency and the Developer attempt to negotiate a DDA for the Property.

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

1. All of the above recitals are true and correct.
2. The City/Agency approves the Agreement and authorizes the Agency Executive Director to sign the Agreement and related documents as the Agency Executive Director may deem necessary and appropriate, and to perform all acts and sign all documents necessary to implement the Agreement pursuant to its terms.

**COUNCIL RESOLUTION 11-\_\_\_\_**  
**REDEVELOPMENT AGENCY RESOLUTION 11-\_\_\_\_**  
**PAGE TWO**

**PASSED, ADOPTED AND APPROVED** by the Council of the City of Eureka and, County of Humboldt, State of California, on the 21<sup>st</sup> day of June, 2011, by the following votes:

AYES: COUNCILMEMBERS  
NOES: COUNCILMEMBERS  
ABSENT: COUNCILMEMBERS  
ABSTAIN: COUNCILMEMBERS

\_\_\_\_\_  
**FRANK JÄGER, Mayor**  
**City of Eureka**

**ATTEST:**

\_\_\_\_\_  
**PAMELA J. POWELL**  
**City Clerk**

**APPROVED AS TO ADMINISTRATION:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**DAVID W. TYSON**  
**City Manager**

\_\_\_\_\_  
**WILLIAM BRAGG**  
**Acting City Attorney**

**COUNCIL RESOLUTION 11-\_\_\_\_**  
**REDEVELOPMENT AGENCY RESOLUTION 11-\_\_\_\_**  
**PAGE THREE**

**PASSED, ADOPTED AND APPROVED** by the Board of the Eureka Redevelopment Agency of the City of Eureka, County of Humboldt, State of California, on the 21<sup>st</sup> day of June, 2011, by the following votes:

AYES: BOARDMEMBERS  
NOES: BOARDMEMBERS  
ABSENT: BOARDMEMBERS  
ABSTAIN: BOARDMEMBERS

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**FRANK JÄGER, Chair**  
**Eureka Redevelopment Agency**

**ATTEST:**

---

**PAMELA J. POWELL**  
**Executive Secretary**

**APPROVED AS TO ADMINISTRATION:**

**APPROVED AS TO FORM:**

---

**DAVID W. TYSON**  
**Executive Director**

---

**WILLIAM BRAGG**  
**Acting Agency Attorney**

## **EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT**

This **EXCLUSIVE RIGHT TO NEGOTIATE AGREEMENT** ("Agreement") is entered into this 21<sup>st</sup> day of June, 2011, (the "Effective Date") by and between the Eureka Redevelopment Agency, a public body, corporate and politic ("Agency") and Mission: SwimPossible, a not-for-profit organization ("Developer"). (Collectively, the Agency and the Developer shall be referred to as the "Parties").

The Agency and the Developer agree as follows:

### **I. NEGOTIATIONS**

#### **A. Length of Negotiation Period.**

Unless extended by mutual consent of the parties, the "Negotiation Period" shall be for Three Hundred Sixty (360) days following the Effective Date, or as otherwise provided in Sections IX.D and IX.E of this Agreement, commencing on the date of this Agreement; provided, however, that the Negotiation Period may be terminated earlier pursuant to the provisions of Section IX.B of this Agreement.

#### **B. Good Faith Negotiations.**

The Agency and the Developer shall negotiate diligently and in good faith during the Negotiation Period towards a Disposition and Development Agreement ("DDA") providing for the disposition by the Agency to the Developer, of certain real property ("Property") described in the attached Exhibit A to this Agreement which is incorporated into this Agreement by this reference. The Parties contemplate that the Developer will construct a 70,000 square foot aquatic center with 3 pools, a gym, restaurant and retail, including 250 parking spaces. (the "Improvements"); as proposed by the Developer on May 9, 2011. The Parties also contemplate that the actual negotiations regarding the DDA will not commence until later in the Negotiation Period, after the Developer has submitted certain required information to the Agency and after the Parties have undertaken preliminary

planning and analysis of the Project.

**C. Exclusive Negotiations.**

The Agency shall not negotiate with any other person or entity regarding development of the Property or any portion of the Property, or solicit or entertain bids or proposals to do so, during the Negotiation Period.

**II. CONSIDERATION**

**A. Down Payment for Administrative Services.**

No down payment shall be required upon execution of this document. In the event that consultants, mutually agreed to, or monies are required to pay for services, the Developer shall deposit any amount required within ten (10) days written notice from the Agency and any outside consultants determined to be necessary by the Agency.

**B. Payment Upon Entering Into DDA.**

The Developer acknowledges and understands that the Agency will require as a condition to entering into the DDA that the Developer must provide a down payment toward the acquisition or lease of the Property. The specific amount of the down payment will be determined during the first one hundred twenty (120) days of the Negotiation Period.

**III. SCHEDULE OF PERFORMANCE.**

The Developer shall perform the following activities during the Negotiation Period:

**A. Legal Status of Developer.**

Within sixty days (60) days of the date of this Agreement, the Developer shall provide to the Agency written statements identifying the Developer's principals and showing their respective interest. Further, Developer shall provide documentation of its legal existence and its authority to

conduct business in the State of California.

**B. Project Submissions Within 120 Days.**

Within one hundred twenty (120) days of the Commencement Date, the Developer shall provide to the Agency the following information:

1. Name and person (persons) who will represent the Developer in negotiations with the Agency.
2. The Developer's previous relevant project experience. If there are joint venture partners, indicate their relevant experience separately.
3. A narrative description of the development proposed, including a description of its physical characteristics and estimated gross sq. ft. of the Project area by use.
4. A Funding Sources and Uses Table for the Project, which shall show the funding sources and uses for the Project including all anticipated development costs, land acquisition and public improvement cost. Such table shall also indicate the proportions of public assistance anticipated, its sources and its uses.
5. Estimated development and pre-development schedule including time required for design and City processing.
6. Income and Cash Flow Projections (next two years).
7. Pro Forma Balance Sheet with complete table of assumptions.
8. Personal Financial Statements of Principal Owner(s) (those with a 20% Ownership or more) which will be stamped **CONFIDENTIAL** and submitted under separate cover.
9. Individual Federal Tax Returns of Principal(s) - past three years which will be stamped **CONFIDENTIAL** and submitted under separate cover.

10. Executed copies of any contracts which the Developer has entered into with its consultants for the Project, pertaining to architectural, engineering, environmental analysis and soil analysis.

11. Architectural and site plans for the Project; showing the building layout, proposed square footage, access points and parking layout areas. The plans should include conceptual building elevations that indicate the architectural style and integrity of the development. The plan should show adjacent land uses to illustrate the projects relationship to the surrounding area and land uses.

12. The Developer shall demonstrate to the Agency that it has lender, grantor and equity commitments for all financing necessary for the Developer to complete the Project, by submitting to the Agency written letters of commitment for all required funding. For any equity commitments which the Developer obtains, the Developer shall submit to the Agency current audited financial statements of the party providing such commitments prepared by an independent certified public accountant in accordance with generally accepted accounting principles. Commitments for any loans or grants required to complete the Project shall be valid for at least six months (6) months following the date which is one hundred eighty (180) days from the date of this Agreement.

13. Price and terms for purchase of Property.

#### **IV. AGENCY APPROVAL OF DEVELOPER SUBMISSIONS.**

Within thirty (30) days after the Agency receives any information or documents required to be submitted to it by the Developer pursuant to Section III of this Agreement, the Agency shall advise the Developer of its acceptance or rejection of the information or documents. If the Agency rejects any information or documents submitted to it by the Developer, it shall grant the Developer an opportunity to revise its submission and to resubmit such revised submission to the



Agency within a reasonable time frame. The Agency shall advise the Developer of its acceptance or rejection of any such revised submission within thirty (30) days of its receipt of the revised submission from the Developer.

**V. ENVIRONMENTAL REVIEW.**

If the Developer has fully performed under the terms and conditions of Section II and III of this Agreement in a timely manner, and the Agency has approved all required information submitted to it by the Developer, the Developer shall commence the process of environmental review, as required by Public Resources Code Section 21000 et. seq. ("CEQA").

**A. Selection of Consultant and Scope of Work**

The Agency shall select a consultant, with the consent of the Developer, to conduct the environmental review (the "Environmental Consultant") of the Project. The Agency shall negotiate the Environmental Consultant's contracts, scope of work and qualifications for review in consultation with the Developer. Upon approval of the contract/s, the Environmental Consultant shall begin preparation of the environmental review within thirty (30) days after the Developer meets all of the requirements of Section II and III of this Agreement.

**B. Consultant's Fees**

The Developer shall pay all costs and expenses for the required environmental review, including amounts in the approved contract between the Developer and the Environmental Consultant.

**VI. NEGOTIATION OF DISPOSITION AND DEVELOPMENT AGREEMENT**

If the Developer has performed all of the requirements of Section II and III of this Agreement in a timely manner, the Agency shall deliver to the Developer a draft of the DDA within

thirty (30) days after the Developer's completion of performance. The Developer and Agency shall negotiate diligently and in good faith until the one hundred eightieth (180) day of the Negotiation Period pursuant to Sections IX.C and IX.D below, or the Parties shall terminate this Agreement.

The Developer understands and agrees it is solely responsible for obtaining all governmental permits for the project, at the Developer's sole expense.

## **VII. AGENCY RESPONSIBILITIES**

The Developer understands and acknowledges that any DDA resulting from the negotiations arising from this Agreement shall become effective only if and only after such DDA has been considered and approved by the Agency Board and City Council of the City of Eureka at a public hearing called for that purpose.

## **VIII. RIGHT OF ENTRY**

### **A. Right of Entry**

Prior to execution of a DDA the Developer has requested the right to enter the Property in order to perform due diligence. The Agency hereby grants to the Developer a right of entry to enter the Property for the purposes of conducting inspections, and performing other due diligence work. Prior to entering the Property, the Developer shall provide the Agency with evidence of general liability insurance with limits not less than Two Million Dollars (\$2,000,000) for each occurrence combined single limit for Bodily Injury and Property Damage, including coverage for Contractual Liability, Personal Injury, Broadform Property Damage, Products and Completed Operations. Developer shall be responsible for restoring the Property to its original condition prior to any entry other than as provided below. Developer shall indemnify, defend and hold the Agency and its Directors, officers, employees and agents harmless from any and all claims, liabilities, damages, losses, expenses, costs

and fees (including attorney's fees and costs) which may proximately arise out of the Developer's entry upon the Property or the investigations and tests which the Developer may conduct. Developer shall provide the Agency with copies of any reports or studies conducted regarding the Property at such time as Developer receives such reports.

## **IX. FAILURE TO PERFORM UNDER THIS AGREEMENT**

### **A. Time is of the Essence**

The Agency and the Developer hereby acknowledge that time is of the essence to this Agreement, such that the Developer's failure to fully perform according to the terms and conditions of this Agreement shall be considered a material breach of this Agreement.

### **B. Early Termination**

On or before the date which is three hundred sixty (360) days following the Commencement Date, either party may terminate this Agreement if it determines that development of the Property in the manner contemplated by this Agreement is not financially feasible.

### **C. Notice to Developer of Breach**

In the event that the Developer fails to perform pursuant to the terms and conditions of this Agreement, the Agency may declare the Developer in default and terminate this Agreement upon fifteen (15) days written notice to Developer.

### **D. Agency Discretion to Extend Time for Performance**

Notwithstanding the above, if the Agency determines that it is in the best interests of the Agency, the Agency may extend the time for Developer's performance of any of the terms and conditions of this Agreement, for up to one hundred eighty (180) days. The Agency shall have sole discretion to grant an extension to the Developer and in no event shall this provision be construed so

as to convey any right or entitlement to an extension for performance to the Developer.

**E.     Extension of Time to Complete Legal Requirements**

In the event that the Developer has fully performed under the terms and conditions of this Agreement in a timely manner, and in the event that the Parties have negotiated a preliminary DDA over which the Parties have reached agreement about its terms, the Agency shall extend the Negotiating Period by the amount of time necessary to complete the environmental review required by CEQA, and the amount of time necessary to give public notice of consideration of adoption of the DDA pursuant to Health and Safety Code Section 33433.

**X.     HOLD HARMLESS**

The Developer hereby covenants, on behalf of itself, its successors and assigns, to indemnify, defend save and hold harmless and defend the Agency, its elected officials, agents, directors, staff, volunteers and designated representatives, from all claims, demands or actions arising from the Developer's actions with respect to this Agreement, including but not limited to the Agency' s actions or lack of actions with respect to proposals submitted to it by the Developer both prior and subsequent to this Agreement, the Agency' s action or lack of actions with respect to the Property, the Agency' s negotiation and execution of this Agreement, any prior negotiations and agreements by and between the Parties and negotiation and execution of a DDA for the Project.

**XI.    LIMITATIONS**

By its execution of this Agreement, the Agency is not committing itself to or agreeing to undertake (a) commitment or reservation of public funds, revenues or reserves to the Project; (b)

approval of the Project by the Agency; (c) any other acts or activities requiring the subsequent independent exercise of discretion by the Agency, or any agency or department of the City.

This Agreement does not constitute a disposition of property of the Agency, and does not require a public hearing. Execution of this Agreement by the Agency is merely an agreement to enter into a period of exclusive negotiations according to the terms of this Agreement, and reserves final discretion and approval by the Agency as to any DDA and all proceedings and decisions in connection with any DDA.

This Agreement also shall not prevent the Agency from providing any person or entity with any information regarding the Property which is contained in the public records.

## **XII. ATTORNEYS' FEES**

In the event any action is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to an award of attorney's fees and experts' fees incurred in connection with such action.

**IN WITNESS WHEREOF**, this Agreement has been executed by the Parties on the  
date first written above.

**AGENCY:**

**Eureka Redevelopment Agency**

By: \_\_\_\_\_  
**David W. Tyson, Executive Director**

**DEVELOPER:**

**Mission: SwimPossible**

By: \_\_\_\_\_  
**Brian Nunn**

**ATTEST:**

\_\_\_\_\_  
**Pamela J. Powell**  
**Agency Secretary**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**William Bragg**  
**Acting Agency Attorney**

## **EXHIBIT A**

### **DESCRIPTION OF PROPERTY**

#### **LEGAL DESCRIPTION**

APN 002-241-013, containing approximately 8.41 acres of land, and located between Waterfront Drive and Humboldt Bay between "L" and "T" Streets, Eureka.

EUREKA CITY COUNCIL  
**AGENDA SUMMARY**

**RE: PERIODIC REVIEW OF SERVICE RATE  
ADJUSTMENT FOR SOLID WASTE COLLECTION**

**FOR AGENDA DATE: JUNE 21, 2011**  
**AGENDA ITEM NO.:** 14  
Page 1

**RECOMMENDATION:**

Adopt Resolution approving a solid waste collection rate increase by Recology Humboldt County effective July 1, 2011.

**SUMMARY OF THE ISSUE:**

Attached for the Council's consideration and action is a proposed increase to the solid waste collection rates within the City for FY 2011-12. Collection services in the City are currently provided through a Franchise Agreement with Recology Humboldt County (Recology).

If approved, the collection rates will increase by 8.82% for all customers. The rates will increase 2.26% on July 1, 2011, and the remaining increase will occur when the commercial recycling component of the Solid Waste and Mandatory Garbage and Recycling Collection Ordinance is implemented.

The reason for the phased increase is that Recology needs to be assured rates will cover the costs of ordering the equipment necessary to implement mandatory commercial recycling. If approved, Recology will begin the process of ordering the necessary equipment. When the equipment is acquired, Recology will put into action the mandatory commercial recycling program and increase rates accordingly. Implementation of the program is estimated to begin sometime in 2012. The timing depends upon finalizing a recycling processing agreement.

*(continued on next page)*

**FISCAL IMPACT:**

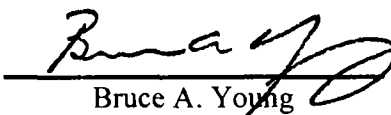
The City receives a Franchise Fee from Recology Co. (5% of gross revenues derived by the company from the provision of services within the City) which totals \$373,667 for fiscal year 2011/12, an increase of \$30,738 from the previous rate review of July 2010. These funds are placed into the General Fund.

**MANAGEMENT ANALYST:**



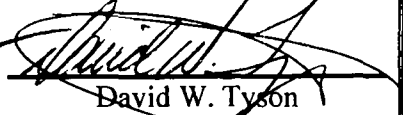
Miles Slattery  
Project Manager

**DEPARTMENT HEAD:**



Bruce A. Young  
Public Works Director

**CITY MANAGER:**



David W. Tyson  
City Manager

**REVIEWED BY:**

City Attorney  
Finance  
Assistant City Manager

**DATE:**

6-16-11  
6-15-11

**INITIALS:**

PR  
MK

**Council Action:**

Ordinance No. \_\_\_\_\_ Resolution No. \_\_\_\_\_



**SUMMARY OF THE ISSUE (CONTINUED):**

The Annual Rate Review and Adjustment reflects an 8.82% increase. Major components of the increase include the following:

- An increase of ~750 tons of solid waste disposal from reinstituting some form of the street sweeping program (an annual cost of \$118,769).
- An increase in fuel costs based on the Motor Fuel Index increase of 13.93% (an annual cost of \$24,638).
- Commercial recycling program implementation (an annual cost of \$449,841).

**ANNUAL RATE ADJUSTMENT**

Per terms of the City's Solid Waste Franchise Agreement with Recology, the City Council performs a rate adjustment review each year to ensure (in protecting the public's interest) that rates do not exceed the reasonable cost of providing services. The Agreement allows for an annual adjustment of Recology's contracted Revenue Requirement. The Revenue requirement represents Recology's full compensation for all labor, equipment, materials and supplies, overhead, profit and all other costs necessary to perform the services required by the Franchise Agreement.

As compensation, Recology is authorized to collect service rates sufficient to meet its authorized Revenue Requirement. Service costs generally increase each year because of higher insurance and fuel costs, allowable cost-of-living increases, and increases related to the contracted disposal tonnage rates through the Humboldt Waste Management Authority (HWMA). The franchise fee percentage and allowable profit compensation percentage remain the same, and are calculated on the increased baseline costs. The proposed rate increase of 8.82% represents an increase of \$605,160 for FY 2011-12.

**Cost Items**

Included in the proposed annual service rate are the following cost items and adjustments:

1. **Total Allowable Costs.** These costs include non-escalating costs such as equipment leases, escalating costs such as health insurance costs, labor costs and fuel costs, and escalating CPI costs such as administrative overhead, computer services, property rentals, freight and repairs. The Total Allowable Costs resulted in an estimated increase of \$384,039 from the previous rate review of July 2010. This can be attributed to an increase in cost for labor and annual consumer price index (CPI) increases for all the other items.
2. **Total Pass Through Costs.** These costs include items such as insurance costs (other than health), property taxes, licenses and fees. The cumulative Total Pass Through Costs resulted in an estimated increase of \$4,407 from the previous rate review of July 2010. This can be attributed to slight increases in insurance, property taxes and vehicle license fees.

**Cost Items (continued):**

3. **Disposal Costs:** The disposal costs this year are estimated to increase by \$109,169. This is due to a potential increase in solid waste disposal tonnage coming from a reinstituted street sweeping program but is offset by a trending decrease in tonnage from the curbside program.
4. **Franchise Fee:** The Agreement includes a price factor for the City's franchise fee. As the contract amounts are adjusted, so is the franchise fee amount, which is calculated as 5% of gross receipts. The Franchise Fee estimate for FY 2011-12 represents an increase of \$30,738 over the previous rate review of July 2010.
5. **Profit Compensation.** The Agreement provides for an annual adjustment to Recology's profit, which pursuant to the Agreement is 20% of all Allowable Costs. The Profit Compensation estimate for FY 2011-12 represents an increase of \$76,807 over the previous rate review of July 2010.

**Rate Adjustment Summary**

Since this year's rate adjustment will be phased, staff has provided a breakdown of how the adjustment affects customer's costs based on 2.26% and 8.82% increases. Please note that all cost factor amounts are close approximations:

<b>COST FACTOR</b>	<b>AMOUNT</b>
1. Total Allowable Costs (including fuel)	\$ 31,275
2. Total Pass Through Costs	\$ -8,745
3. Disposal Costs	\$ 118,769
4. Franchise Fee	\$ 7,766
5. Profit Compensation	\$ 6,255
<b>Total Increased Costs</b>	<b>\$155,320</b>
<b>TOTAL COST INCREASE</b>	<b>\$155,320 (2.26%)</b>
<b>Effective July 1, 2011</b>	
<i>Increase for average commercial customer (1 yard bin)</i>	\$3.24 per month
<i>Increase for average residential customer (30 gallon can)</i>	\$0.53 per month

**RE: PERIODIC REVIEW OF SERVICE RATE  
ADJUSTMENT FOR SOLID WASTE COLLECTION**

**FOR AGENDA DATE: JUNE 21, 2011  
AGENDA ITEM No.:**

*Page 4*

**Rate Adjustment Summary (continued):**

<b>COST FACTOR</b>	<b>AMOUNT</b>
1. Total Allowable Costs (including fuel)	\$ 384,039
2. Total Pass Through Costs	\$ 4,407
3. Disposal Costs	\$ 109,169
4. Franchise Fee	\$ 30,738
5. Profit Compensation	\$ 76,807
<b>Total Increased Costs</b>	<b>\$605,160</b>
<b>TOTAL COST INCREASE</b>	<b>\$605,160 (8.82%)</b>
<b>Effective 2012 (pending Commercial Recycling Program implementation)</b>	
<i>Increase for average commercial customer (1 yard bin)</i>	\$12.66 per month
<i>Increase for average residential customer (30 gallon can)</i>	\$2.08 per month

**RECOMMENDATION**

Staff recommends adoption of the attached Resolution approving a solid waste collection rate increase by Recology Humboldt County effective July 1, 2011.

**ATTACHMENTS**

1. Resolution
2. Recology Periodic Rate Review and Adjustment Fiscal Year 2011-2012

ATTACHMENT I  
***Resolution***

**RESOLUTION NO. 11 - \_\_\_\_\_**  
**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EUREKA**  
**APPROVING RATE INCREASE FOR RECOLOGY HUMBOLDT COUNTY**

**WHEREAS**, on December 19, 1997, the City of Eureka entered into a Franchise Agreement with Recology Humboldt County (Contractor), formerly City Garbage Company of Eureka, for collection of garbage and refuse in the City of Eureka; and,

**WHEREAS**, the Franchise Agreement provides that the City may adjust the garbage collection rates as deemed advisable; and,

**WHEREAS**, the Contractor has incurred additional operational costs, and agrees to continue programs intended to remove blight and assist the City in meeting our State-mandated waste diversion requirements (AB 939).

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Eureka as follows:

**SECTION 1**

Effective July 1, 2011, the authorized garbage and collection rates that may be charged by Recology Humboldt County within the corporate limits of the City of Eureka be set forth in Attachment 2, attached hereto, and made a part hereof by reference.

**THIS RESOLUTION IS HEREBY PASSED, APPROVED AND ADOPTED** by the City Council of the City of Eureka in the County of Humboldt, State of California, on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote:

AYES:	COUNCILMEMBERS
NOES:	COUNCILMEMBERS
ABSENT:	COUNCILMEMBERS
ABSTAIN:	COUNCILMEMBERS

\_\_\_\_\_  
FRANK J. JAGER  
*Mayor of the City of Eureka*

**Attest:**

\_\_\_\_\_  
PAMELA J. POWELL  
*City Clerk*

**Approved as to form:**

\_\_\_\_\_  
WILLIAM R. BRAGG  
*City Attorney*

**Approved for Administration:**

\_\_\_\_\_  
DAVID W. TYSON  
*City Manager*

ATTACHMENT 2

***Recology***

***Periodic Rate Review and Adjustment***

***Fiscal Year 2011-2012***



RECEIVED  
JUN 10 2011  
CITY OF EUREKA  
PUBLIC WORKS

June 10, 2011

**HAND DELIVERED**

Mr. David W. Tyson  
City Manager  
CITY OF EUREKA  
531 K Street  
Eureka, CA 95501

**RE: Annual Rate Adjustment – Rate Year July 1, 2011 through June 30, 2012 (Revised)**

Dear Mr. Tyson,

Thank you for this opportunity to present our revised rate application and background documentation in accordance with the terms of the franchise contract agreement between the City of Eureka and Recology Humboldt County.

As you are aware, this coming rate year 2011 (July 1, 2011 through June 30, 2012) is the first index year after a full rate review. The results of the calculations and reconciliation of pass-through costs, as allowed per the terms of our agreement, indicate an increase of 2.26%, \$155,319.

This rate application reflects a savings of about \$137,000 related to reducing the recycling processing fees by \$50 per ton and reducing the collection costs by no longer hauling recycled materials to the ACRC Samoa processing facility. Without this savings the proposed increase would have been 4.26%.

This year's revenue requirement has been influenced primarily by two items, most of which have been outside the control of Recology Humboldt County.

1. **Disposal Fee:** The Humboldt Waste Management Authority has finalized the tipping fee rate and reduced it to \$120.23 for the 12-month period beginning July 1, 2011. In anticipation of the city reinstituting some form of street sweeping program, we expect the tonnage to increase over the current year by about 750 tons. The combination of a lower tipping fee and an increase of pass-through volume adjustment caused the disposal fee to increase by \$118,769 or 5.30%. Another way to look at it is the change in disposal fees are approximately 76% of the overall rate increase.
2. **Fuel Cost:** This is an allowable indexed cost item. The Motor Fuel Index increased 13.93%, increasing the 2011-2012 Adjusted cost \$24,638 over the 2010-2011 rate review. This increase is consistent with our actual increase in fuel expense this past

rate year. Based on current purchase prices and trends, this expense has a potential for another big increase in the following year.

The cost of living increase indices applicable to this rate year are:

- |                           |        |
|---------------------------|--------|
| 1. Labor Escalating Costs | 2.09%  |
| 2. Fuel Escalating Costs  | 13.93% |
| 3. Other Escalating Costs | 0.90%  |

The current rate application also includes an estimate for the Commercial Recycling program slated to begin in 2012. Preliminary estimates bring the cost of this program to \$449,841, which would further increase the rates by about 6.4% above the proposed rate effective July 1, 2011.

The HWMA has finalized the disposal fee adjustment and the change has been accounted for in the disposal fee line in the rate application. The rate application also takes the switch from dual-stream recycling to single-stream recycling into account, beginning August 1, 2011. This is also contingent upon final negotiations between the HWMA and Renewable Waste Systems.

Forms 1B and 2B provide detailed data supporting our request.

If you have any questions, please feel free to contact me or call me at (707) 442-4501.

Very truly yours,

**RECOLOGY HUMBOLDT COUNTY**



Michael Leggins  
General Manager

Enclosures

cc:	Miles Slattery	City of Eureka	w/ Attachments
	Bruce Gondry	Recology, Inc.	w/ Attachments
	Ed Farewell	Recology, Inc.	w/ Attachments
	Jon Braslaw	Recology, Inc.	w/o Attachments
	Kyle Flaherty	Recology, Inc.	w/o Attachments



# CITY OF EUREKA

## Annual Rate Review & Adjustment

### FISCAL YEAR 2011 – 2012

Recology Humboldt County  
949 West Hawthorne Street  
Eureka, California 95501

Prepared: April 1, 2011  
Updated: June 10, 2011

## FORM 2B

**ANNUAL COST ALLOCATION  
RESIDENTIAL AND COMMERCIAL COLLECTION CONTRACT**

<b>NAME OF PROPOSER:</b>	<b>RECOLOGY HUMBOLDT COUNTY</b>		<b>2010 - 2011</b>	<b>2011 - 2012</b>	<b>NEW COMM.</b>	<b>2011 - 2012</b>
			<b>PER RATE</b>	<b>ADJUSTED</b>	<b>RECYCLING</b>	<b>ADJ. COST</b>
			<b>REVIEW</b>	<b>COST</b>	<b>PROGRAM</b>	<b>W/ NEW</b>
			<b>ESCALATE</b>			<b>COMM. REC.</b>
			<b>FACTOR</b>			
<b>ALLOWABLE COSTS:</b>						
<b><u>Non Escalating</u></b>						
Amortization	\$	0		0		0
Depreciation		1,213		1,213		1,213
Inter-company Equipment Leases		467,891		467,891	86,876	554,767
Interest		0		0		0
Non-intercompany Equipment Rent/Lease		0		0		0
Other Expenses (Itemized)		0		0		0
		469,104		469,104	86,876	555,980
Revenue from Salvage Materials (credit)		0		0		0
<b>Subtotal Non-escalating Allowable Costs</b>	<b>\$</b>	<b>469,104</b>		<b>469,104</b>	<b>86,876</b>	<b>555,980</b>

**FORM 2B**

<b>ANNUAL COST ALLOCATION RESIDENTIAL AND COMMERCIAL COLLECTION CONTRACT</b>
--

**NAME OF PROPOSER:**                      **RECOLOGY HUMBOLDT COUNTY**

		<b>2010 - 2011 PER RATE REVIEW</b>	<b>ESCALATE FACTOR</b>	<b>2011 - 2012 ADJUSTED COST</b>	<b>NEW COMM. RECYCLING PROGRAM</b>	<b>2011 - 2012 ADJ. COST W/ NEW COMM. REC.</b>
<b><u>Labor Escalating</u></b>						
Payroll						
Manager	\$	\$154,902	1.0209	158,139		158,139
Office & Administrative Staff		181,474	1.0209	185,267		185,267
Commercial Collection Drivers & Crew		100,261	1.0209	102,356	51,788	154,144
Roll Off Collection Drivers & Crew		49,540	1.0209	50,575		50,575
Residential Collection Drivers & Crew		191,910	1.0209	195,921		195,921
Mechanics & Maintenance Crew		108,466	1.0209	110,733	56,481	167,214
Curbside Recycling		163,483	1.0209	166,900		166,900
Green Waste		49,540	1.0209	50,576		50,576
Bulky Item		49,540	1.0209	50,576		50,576
Tote Repair		28,681	1.0209	29,280		29,280
Total Payroll	\$	1,077,798		1,100,323	108,269	1,208,592
Payroll Taxes		108,858	1.0209	111,133	10,935	122,068
Health Insurance		341,073	1.0209	348,201	29,882	378,083
Pension Plan		199,268	1.0209	203,433	17,848	221,281
Workers Compensation		67,210	1.0209	68,615	5,630	74,245
Other Benefits		0	1.0209	0		0
Other - Extraordinary Health Insurance Expense Adj.		0	1.0209	0		0
<b>SUBTOTAL LABOR ESCALATING ALLOWABLE COSTS</b>	<b>\$</b>	<b>1,794,207</b>		<b>1,831,705</b>	<b>172,564</b>	<b>2,004,269</b>

## FORM 2B

<p align="center"><b>ANNUAL COST ALLOCATION RESIDENTIAL AND COMMERCIAL COLLECTION CONTRACT</b></p>
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<b>NAME OF PROPOSER:</b>	<b>RECOLOGY HUMBOLDT COUNTY</b>			<b>2011 - 2012</b>
	<b>2010 - 2011</b>		<b>2011 - 2012</b>	<b>NEW COMM.</b>
	<b>PER RATE</b>	<b>ESCALATE</b>	<b>ADJUSTED</b>	<b>RECYCLING</b>
<b>ALLOWABLE COSTS (Continued):</b>	<b>REVIEW</b>	<b>FACTOR</b>	<b>COST</b>	<b>PROGRAM</b>
<u><b>CPI Escalating (Continued)</b></u>				<b>ADJ. COST</b>
				<b>W/ NEW</b>
				<b>COMM. REC.</b>
Property Rent	85,248	1.0090	86,015	86,015
Office Equipment	0	1.0090	0	0
Office Supplies	14,757	1.0090	14,890	14,890
Parts	84,360	1.0090	85,119	2,350 87,469
Postage	7,444	1.0090	7,511	7,511
Professional Services	26,287	1.0090	26,524	26,524
Repairs	155,419	1.0090	156,818	38,080 194,898
Supplies	50,625	1.0090	51,081	4,950 56,031
Telephone	9,411	1.0090	9,496	9,496
Tires & Tubes	39,034	1.0090	39,385	6,437 45,822
Utilities	9,214	1.0090	9,297	9,297

FORM 2B

ANNUAL COST ALLOCATION  
RESIDENTIAL AND COMMERCIAL COLLECTION CONTRACT

NAME OF PROPOSER:	RECOLOGY HUMBOLDT COUNTY				2011 - 2012	ADJ. COST
	2010 - 2011	ESCALATE	2011 - 2012	NEW COMM.	ADJ. COST	
	PER RATE	FACTOR	ADJUSTED	RECYCLING	W/ NEW	
ALLOWABLE COSTS (Continued):	REVIEW		COST	PROGRAM	COMM. REC.	
CPI Escalating (Continued)						
Other Vehicles / Project Costs	0	1.0090	0		0	
Waste Oil/Solvent Services for Vehicles	0	1.0090	0		0	
Other Expenses (Itemize)						
\$1,000,000 Bond & BIT Inspection	0	1.0090	0		0	
Computer Services: GL-AR-PR-AP.etc	147,708	1.0090	149,037	15,001	164,038	
Driver Medical Exams (annually)	3,031	1.0090	3,058	308	3,366	
Regional Mgt & Acctg. Expense	0	1.0090	0		0	
Corporate Services	0	1.0090	0		0	
Miscellaneous Expenses	8,726	1.0090	8,805	886	9,691	
Landfill Expenses	0	1.0090	0		0	
Other - Employee Recognition	0	1.0090	0		0	
New Programs:						
Mileage/Labor Savings converting to Single-Stream Recycling from Dual Stream		1.0090	(39,985)		(39,985)	
	0	1.0090	0		0	
			0		0	
SUBTOTAL CPI ESCALATING ALLOWABLE COSTS	\$ 1,013,898		983,036	72,012	1,055,048	
TOTAL ALLOWABLE COSTS	\$ 3,454,078		3,485,353	352,764	3,838,117	

FORM 2B

ANNUAL COST ALLOCATION  
RESIDENTIAL AND COMMERCIAL COLLECTION CONTRACT

NAME OF PROPOSER: RECOLOGY HUMBOLDT COUNTY

	2010 - 2011 PER RATE REVIEW	ESCALATE FACTOR	2011 - 2012 ADJUSTED COST	NEW COMM. RECYCLING PROGRAM	2011 - 2012 ADJ. COST W/ NEW COMM. REC.
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PASS-THROUGH COSTS:

Non Escalating

SUBTOTAL NON-ESCALATING PASS-THROUGH COSTS	0		0	0	0
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CPI Escalating

Insurance (other than health insurance)	\$103,088	1.0090	\$104,016	\$7,580	\$111,596
Pass through adjustment	(299)		(19,886)		(19,886)
Licenses	29,419	1.0090	29,684	5,572	35,256
Pass through adjustment	(6,471)		189		189
Permits & Regulatory Fees	0	1.0090	0		0
Pass through adjustment	0		0		0
Property Taxes	7,083	1.0090	7,147		7,147
Pass through adjustment	(2,805)		114		114
SUBTOTAL CPI ESCALATING PASS-THROUGH COSTS	130,014		121,269	13,152	134,421

## FORM 2B

**ANNUAL COST ALLOCATION  
RESIDENTIAL AND COMMERCIAL COLLECTION CONTRACT**

<b>NAME OF PROPOSER:</b>	<b>RECOLOGY HUMBOLDT COUNTY</b>		<b>2011 - 2012</b>
	<b>2010 - 2011</b>	<b>2011 - 2012</b>	<b>NEW COMM.</b>
	<b>PER RATE</b>	<b>ADJUSTED</b>	<b>RECYCLING</b>
<b><u>PASS-THROUGH COSTS:</u></b>	<b><u>REVIEW</u></b>	<b><u>COST</u></b>	<b><u>PROGRAM</u></b>
	<b><u>ESCALATE</u></b>		<b><u>ADJ. COST</u></b>
	<b><u>FACTOR</u></b>		<b><u>W/ NEW</u></b>
			<b><u>COMM. REC.</u></b>

Other Escalating Costs (Itemize and state escalator)

<b>TOTAL PASS-THROUGH COSTS (excluding disposal)</b>	<b>\$</b>	<u><b>130,014</b></u>	<u><b>121,269</b></u>	<u><b>13,152</b></u>	<u><b>134,421</b></u>
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M S W 18,635 tons @ 123.31 (includes collection and sweepings), City  
 Vehicles 345 tons @ 123.31, Green Waste 800 tons @ 49, Phone  
 Books 0 tons @ 0, Appliances 50 tons @ 123.31, Bulky Item Coupons  
 150 tons @ 123.31, Processing Fee \$109,900

2,514,186

M S W 17700 tons @ \$120.45 (includes collection and sweepings), City  
 Vehicles 300 tons @ \$132.64, Green Waste 800 tons @ \$49, Phone  
 Books 0 tons @ \$0, Rec. Proc. Fees 180 tons @ \$50, Bulky Item  
 Coupons 200 tons @ \$234.32, Processing Fee 1920 tons @ \$0

\$2,266,840                      \$2,266,840

Pass through adjustment from 7/1/2008 - 6/30/2009                      (\$273,146)

\$92,669                      \$92,669

Processing Fees - Income - 1,200 tons at (\$8.00)/ton                      (\$9,600)                      (\$9,600)

<b>DISPOSAL COSTS</b>	<b>\$</b>	<u><b>2,240,740</b></u>	<u><b>2,359,509</b></u>	<u><b>(9,600)</b></u>	<u><b>2,349,909</b></u>
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FORM 2B

ANNUAL COST ALLOCATION  
RESIDENTIAL AND COMMERCIAL COLLECTION CONTRACT

NAME OF PROPOSER:	RECOLOGY HUMBOLDT COUNTY		2010 - 2011 PER RATE REVIEW	ESCALATE FACTOR	2011 - 2012 ADJUSTED COST	NEW COMM. RECYCLING PROGRAM	2011 - 2012 ADJ. COST W/ NEW COMM. REC.
<b>PROFIT MARGIN:</b>							
20% of allowable costs	\$	690,816			697,071	70,553	767,623
<b>CITY FRANCHISE FEE:</b>							
5% of gross receipts	\$	342,929			350,695	22,972	373,667
<b>TOTAL COSTS</b>	\$	6,858,577			7,013,896	449,841	7,463,737
Percentage increase in total costs		2.36%			2.26%		8.82%



Recology Humboldt County  
City of Eureka - Annual Rate Adjustment & Rate Application  
**Cost of Living Indices**  
Rates to Become Effective July 1, 2011

\\nrcal\sv01\kflaherty\Eureka\FY 2011\City of Eureka\

Employment Cost Index for Total Compensation, Private Industry Workers, All Workers

Index: Quarter 4 - 2010	(ECI - Table 5)	112.5
Index: Quarter 4 - 2009	Old Index Basis revised	110.2
Change in Index:		2.3
% Change in Index	$2.3 / 110.2 =$	2.0871%

2.0871%

**Fuel Escalating Costs**

Motor Fuel Index, All Urban Consumers, U.S. City Average (CPI-U)

Index: Quarter 4 - 2010	256.0
Index: Quarter 4 - 2009	224.7
Change in Index:	31.3
% Change in Index	$31.295 / 224.73 = 13.9256\%$

**Factor for Fuel Escalating Costs**       $1.0000 + 0.1393 = 1.1393$

**Other Escalating Costs**

Consumer Price Index - All Urban Consumers , West-B/C

Index: Quarter 4 - 2010	134.3
Index: Quarter 4 - 2009	133.1
Change in Index:	1.2
% Change in Index	$1.196 / 133.132 = 0.8984\%$

**Factor for Other Escalating Costs**       $1.0000 + 0.0090 = 1.0090$

Recology Humboldt County  
**Reconciliation of Pass-Through Items**  
For Period July 1, 2009 through June 30, 2010

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**Summary of Pass-through Items**

	<u>Actual</u> <u>Expenses</u>	<u>2006-2007</u> <u>Adj. Cost</u>	<u>Adjustment to</u> <u>Rate Package</u>
Insurance	\$83,208	\$103,088	(\$19,880)
License Fees	29,608	29,419	189
Permits & Regulatory Fees	0	0	0
Property Tax	7,197	7,083	114
Total Adjustment	<u>\$120,012</u>	<u>\$139,590</u>	<u>(\$19,578)</u>

**Insurance Reconciliation**  
Recology Humboldt County  
**City of Eureka (EIC) Only**  
For Period July 1, 2009 through June 30, 2010

\\norcal-srv01\kflaherty\Eureka\FY 2011\City of Eureka\

**General Liability Insurance**

Account: 0600510.6430 - I/C Insurance

Month		Amount
July	2009	\$5,039
August	2009	5,039
September	2009	4,567
October	2009	2,548
November	2009	2,548
December	2009	2,548
January	2010	2,548
February	2010	2,548
March	2010	2,548
April	2010	2,548
May	2010	3,425
June	2010	3,425
Total		\$39,332
Add:	Insurance per Lease Agreement	2,019
<b>Total I / C Insurance Expense</b>		<b>\$41,352</b>

**General Insurance** (Bonds)

Account: 0601020.6420 - Insurance

City of Eureka

Month		Amount
July	2009	\$1,007
August	2009	1,007
September	2009	1,007
October	2009	1,007
November	2009	1,007
December	2009	1,007
January	2010	1,007
February	2010	1,007
March	2010	1,007
April	2010	1,007
May	2010	1,007
June	2010	1,007
Total		\$12,089

**Insurance Reconciliation**  
Recology Humboldt County  
**City of Eureka (EIC) Only**  
For Period July 1, 2009 through June 30, 2010

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**Insurance Department Fee**

Account: 0600810.8906 - Insurance Dep. Fee

Month	Amount
July 2009	\$3,546
August 2009	3,546
September 2009	11,820
October 2009	5,829
November 2009	5,829
December 2009	5,829
January 2010	5,829
February 2010	5,829
March 2010	5,829
April 2010	5,829
May 2010	7,646
June 2010	7,646
<b>Total</b>	<b><u>\$75,008</u></b>

Total Allocated Insurance Expense:

I/C Ins. Expense (6430) + Ins. Dept. Fee (8906) \$ 116,359

Total Allocated Insurance Expense \$116,359

Allocation of Expense

Other Areas	5.98%	\$6,958	
<b>City of Eureka</b>	<b>61.12%</b>	n / a	
County of Humboldt	32.90%	38,282	
<b>Total</b>	<b>100.00%</b>		<u>45,241</u>

Total Allocated General Liability Ins Exp to City of Eureka \$71,119

Add: City of Eureka Contract Performance Bond (Acct 6420) 12,089

Total General Liability Insurance Exp Allocated to City of Eureka: **\$83,208**

Less:

2009 - 2010 Adjusted Cost 103,088

**Adjustment to Rate Package** **(\$19,880)**

Recology Humboldt County  
Reconciliation of Pass-Through Items

**City of Eureka (EIC) Only**

**License Fees & Expense**

For Period July 1, 2009 through June 30, 2010

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Month	Amount
July 2009	\$ 3,982
August 2009	2,245
September 2009	2,306
October 2009	2,705
November 2009	1,547
December 2009	1,055
January 2010	0
February 2010	1,433
March 2010	0
April 2010	0
May 2010	454
June 2010	13,881
Total	<u>\$29,608</u>

**License Fees**

Total License Expense (EIC Only)	\$29,608
Deduct:	
2009 - 2010 Adjusted Cost	<u>29,419</u>
<b>Adjustment to Rate package</b>	<b><u>\$189</u></b>

Recology Humboldt County  
City of Eureka  
DMV Renewal

Rate Year July 1, 2009 - June 30, 2010  
Source: Norcal System Acct. 1006 1194

Vendor: 01/01/2011 City of Eureka

Seq	DT	Doc Type	GL Date	Batch Number	Co	B U 2	Obj Acct	Sub-Ledg Sub	Active / Gone	Truck No	City / County / Shared	Line / Spare	B U	Year	Make	Veh Type	Type Description	Explanation Alpha Name	Explanation - Remark	Per No	Amount	R/O	Z / S	City Share	City Amount		
12	PV	1244614	31-Dec-09	2599414	01006	1006	1194	A	5190	CI	L	110	2009	FRT	SPF	Flatbed & Stakebed	DMV RENEWAL	9DAM4750-TRK #05190		3	1,055.00	0	100%		1,055.00		
13	PV	1254466	4-Feb-10	2618723	01006	1006	1194	A	6150	CI	L	510	1998	GMC	OV	Pickup	DMV RENEWAL	WZ521585/TRK #06150		5	178.00	0	100%		178.00		
30	PV	2177819	30-Jun-10	2706954	01006	1006	1194	A	6316	CI	L	20	2010	GMC	OV	Pickup	DMV RENEWAL	Unit 06316		9	616.00	0	100%		616.00		
31	PV	2177819	30-Jun-10	2706954	01006	1006	1194	A	6317	S	L	510	2010	GMC	OV	Pickup	DMV RENEWAL	Unit 06317		9	616.00	0	60%		369.60		
21	PV	1282691	11-May-10	2682094	01006	1006	1194	A	7011	CI	L	510	1994	CHEV	ST	Shop Truck	DMV RENEWAL	RE238682 - TRK #07011		8	454.00	0	100%		454.00		
5	PV	1205237	11-Aug-09	2508088	01006	1006	1194	A	9032	CI	S	130	1999	VOL	CT	CT - Recycle Truck	DMV RENEWAL	XN768597/TRK #09032		11	978.00	0	100%		978.00		
7	PV	1217682	25-Sep-09	2536510	01006	1006	1194	A	11193	CI	L	40	2005	AUT	FL	Front Loader	DMV RENEWAL	5H202129 - TRK #11193		12	2,306.00	0	100%		2,306.00		
29	PV	1296851	25-Jun-10	2712126	01006	1006	1194	A	12036	CI	S	60	1990	WHT	RO	Roll Off	DMV RENEWAL	LU506440 - TRK #12036		9	1,447.00	0	100%		1,447.00		
10	PV	1225415	23-Oct-09	2554762	01006	1006	1194	A	12135	CI	L	60	1999	VOL	RO	Roll Off	DMV RENEWAL	XN763633/TRK #12135		1	1,486.00	0	100%		1,486.00		
1	PV	1198260	15-Jul-09	2490630	01006	1006	1194	A	13130	CI	L	20	2004	AUT	SA1	Side Loader - Auto	DMV RENEWAL	4H200761/TRK #13130		10	1,991.00	0	100%		1,991.00		
2	PV	1198262	15-Jul-09	2490630	01006	1006	1194	A	13131	CI	L	20	2004	AUT	SA1	Side Loader - Auto	DMV RENEWAL	4H200678/TRK #13131		10	1,991.00	0	100%		1,991.00		
27	PV	1290285	3-Jun-10	2698543	01006	1006	1194	A	13206	CI	L	20	2009	AUT	SA1	Side Loader - Auto	DMV RENEWAL	9H209224-TRK #13206		9	2,670.00	0	100%		2,670.00		
26	PV	1290285	3-Jun-10	2698543	01006	1006	1194	A	13207	CI	L	130	2009	AUT	SA2	Side Loader - Auto	DMV RENEWAL	9H209225-TRK #13207		9	2,926.00	0	100%		2,926.00		
25	PV	1290281	3-Jun-10	2698543	01006	1006	1194	A	13208	CI	L	130	2009	AUT	SA2	Side Loader - Auto	DMV RENEWAL	9H209226-TRK #13208		9	2,926.00	0	100%		2,926.00		
24	PV	1290279	3-Jun-10	2698543	01006	1006	1194	A	13209	CI	L	130	2009	AUT	SA2	Side Loader - Auto	DMV RENEWAL	9H209227-TRK #13209		9	2,926.00	0	100%		2,926.00		
9	PV	1221690	10-Oct-09	2546799	01006	1006	1194	A	14000	CI	L	20	1992	LOD	SM1	Side Loader - Manual	DMV RENEWAL	NK006751/TRK #14000		1	1,219.00	0	100%		1,219.00		
14	PV	1254468	4-Feb-10	2618723	01006	1006	1194	A	14126	CI	L	20	1999	LOD	SM1	Side Loader - Manual	DMV RENEWAL	XK006263/TRK #14126		5	1,255.00	0	100%		1,255.00		
3	PV	1205232	11-Aug-09	2508088	01006	1006	1194	A	14156	CI	L	20	2001	LOD	SM1	Side Loader - Manual	DMV RENEWAL	ZK006502/TRK #14156		11	1,267.00	0	100%		1,267.00		
11	PV	1234913	30-Nov-09	2577543	01006	1006	1194	A	15171	CI	L	130	2002	LOD	SM2	Side Loader - Manual	DMV RENEWAL	12K006536/TRK #15171		2	1,547.00	0	100%		1,547.00		
																					29,854.00						\$29,807.80

Total Active Vehicles 19  
"City" Vehicles 18  
"City" Line Vehicles 16  
"City" Spare Vehicles 2  
"Shared" Vehicles 1  
"Shared" Line Vehicles 1  
"Shared" Spare Vehicles 0

Recology Humboldt County  
Reconciliation of Pass-Through Items  
**City of Eureka (EIC) Only**  
**Property Taxes**  
For Period July 1, 2009 through June 30, 2010

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Total Property Tax - Secured	\$2,396
Total Property Tax - Unsecured	11,775
Other Property & Business Taxes	0
<u>Total Property Taxes</u>	<u>\$14,171</u>

Allocation of Property Tax Expense	Property Tax	Business & Other Taxes	Total Property Taxes
Other Areas	\$ 3,100	\$ -	\$ 3,100
City of Eureka	7,197	0	7,197
County of Humboldt	3,874	0	3,874
Total	<u>\$ 14,171</u>	<u>\$ -</u>	<u>\$ 14,171</u>

Property Tax Expense Allocated to the City of Eureka \$7,197

Less:

2009 - 2010 Adjusted Cost 7,083

**Adjustment to Rate Package \$114**

Recology Humboldt County

**Property Tax Allocation - Secured & Unsecured**

**From July 1, 2009 through June 30, 2010**

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Tax Recap	Actual	Tax Expense Before Allocation				
		Shared	City	County	Other	Total
Business Taxes	\$ -	\$ -				\$ -
Property Tax - Secured	2,396.06				2,396.06	2,396.06
Property Tax - Unsecured	11,774.59	11,774.59				11,774.59
Total Property Tax	<u>\$ 14,170.65</u>	<u>\$ 11,774.59</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 2,396.06</u>	<u>\$ 14,170.65</u>

Tax Share Allocation		61.12%	32.90%	5.98%	100.00%
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Tax Recap	Actual	Tax Expense After Allocation				
		Shared	City	County	Other	Total
Business Taxes	\$ -	\$ -				\$ -
Property Tax - Secured	2,396.06	0.00			2,396.06	2,396.06
Property Tax - Unsecured	11,774.59		7,196.63	3,873.84	704.12	11,774.59
Total Property Tax	<u>\$ 14,170.65</u>	<u>\$ -</u>	<u>\$ 7,196.63</u>	<u>\$ 3,873.84</u>	<u>\$ 3,100.18</u>	<u>\$ 14,170.65</u>



## Recology Humboldt County

## Property Tax

For Period July 1, 2009 through June 30, 2010

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### Property Tax Actual Bills

Assessment Period			Property							Tax		City Share				
From	To	Code	Fee Number	Assessment No.	Location	Tax Roll	Type Tax	Land	Improv'mts	Personal Property	Other	Total	Rate	Tax	%	\$
07/01/09 - 06/30/10		407	007-021-005-000	800-008-734-000	949 W. Hawthorne	Unsecured			12,820	84,550		97,370	1.064%	1,036.01	61.12%	633.21
07/01/09 - 06/30/10		407	007-021-005-000	860-001-732-000	Possessory Interest	Unsecured		51,461	51,462			102,923	1.064%	1,095.11	61.12%	669.33
07/01/09 - 06/30/10		408	405-081-051-000	810-000-294-000	Leased Equipment	Unsecured				906,340		906,340	1.064%	9,643.47	61.12%	5,894.09
07/01/09 - 06/30/10		411	403-071-002-000	403-071-002-000	T 5N R 1E SEC 32	Secured	23 acres	4,692				4,692	1.472%	69.08	0.00%	0.00
07/01/09 - 06/30/10		411	403-081-009-000	403-081-009-000	T 5N R 1E SEC 32 & 33	Secured	106.5 acrs	21,726				21,726	1.172%	254.58	0.00%	0.00
07/01/09 - 06/30/10		411	405-081-040-000	405-081-040-000		Secured		75,774				75,774	1.090%	825.76	0.00%	0.00
07/01/09 - 06/30/10		411	405-081-041-000	405-081-041-000		Secured		61,203				61,203	1.095%	670.42	0.00%	0.00
07/01/09 - 06/30/10		411	405-081-044-000	405-081-044-000	T 4N R 1E SEC 5	Secured	80 acres	16,320				16,320	1.158%	189.04	0.00%	0.00
07/01/09 - 06/30/10		411	405-081-052-000	405-081-052-000	PTN SEC 5 T4N-R1E	Secured	157 acres	32,028				32,028	1.122%	359.40	0.00%	0.00
07/01/09 - 06/30/10		411	405-081-055-000	405-081-055-000	PTN NE 1/4 SEC 5 T4N-R1E	Secured	4.5 acres	918				918	3.026%	27.78	0.00%	0.00
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	<b>Rate Base Amount (to be allocated between City &amp; County)</b>	<b>\$11,774.59</b>

City of Eureka Share	\$7,196.63
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Recology Humboldt County  
Reconciliation of Pass-Through Items  
**City of Eureka (EIC only)**  
**Disposal Tonnage & Expense**  
For Rate Year July 1, 2011 through June 30, 2012

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Actual Disposal Cost: July 1, 2009 - June 30, 2010	\$2,607,155
Forecast: 2009 - 2010 Adjusted Cost	<u>2,514,486</u>
Adjustment to Rate Package	<u><u>\$92,669</u></u>

Recology Humboldt County  
Reconciliation of Pass-Through Items

**City of Eureka (EIC only)**

**Disposal Tonnage & Expense**

For Rate Year July 1, 2011 through June 30, 2012

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**Actual Disposal Tonnage & Expense:  
July 1, 2009 - June 30, 2010**

	Tons	Disposal Fee	Expense
Eureka MSW			
Debris Box	4,027.29	\$128.97	\$519,403
Residential	6,183.90	129.20	798,980
Commercial	7,280.06	129.16	940,268
<u>Total MSW</u>	<u>17,491.25</u>		<u>\$2,258,651</u>
Green Waste - Ex City of Eureka	33.75	90.00	\$3,038
Green Waste - Curbside	730.02	90.00	65,702
Telephone Books	0.00	0.00	0
Street Sweepings	1,021.51	129.14	131,917
City of Eureka Vehicles, NOS	373.90	130.78	48,900
Recycling Processing Fee	0.00	0.00	593
ACRC Recycle Processing Tonnage	1,864.31	33.63	62,690
<u>Sub Total</u>	<u>21,514.74</u>	<u>\$119.52</u>	<u>\$2,571,489</u>
Add: Bulky Item Appliances	29.15	\$744.19	\$21,693
Add: Bulky Item Pick Up Program	108.48	128.80	13,973
<u>Total Disposal - FY 2006 - 2007</u>	<u>21,652.37</u>	<u>\$120.41</u>	<u>\$2,607,155</u>

**Forecast Changes** (incremental increase / decrease)  
**July 1, 2010 - June 30, 2011**

	Add'l Tons	Disposal Fee	Expense
Eureka MSW			
Debris Box	(184.93)	(\$5.51)	(\$45,031)
Residential	(201.46)	(5.65)	(59,826)
Commercial	(246.75)	(5.61)	(71,298)
<u>Total MSW</u>	<u>(633.14)</u>		<u>(\$176,155)</u>
Green Waste - Ex City of Eureka	7.76	(41.00)	(\$1,004)
Green Waste - Curbside	1.97	(41.00)	(29,834)
Telephone Books	0.00	0.00	0
Street Sweepings	(639.17)	(5.59)	(84,681)
City of Eureka Vehicles, NOS	(321.68)	4.92	(41,812)
Recycling Processing Fee	0.00	0.00	(593)
ACRC Recycle Processing Tonnage	253.33	16.38	43,201
<u>Sub Total</u>	<u>(1,330.93)</u>		<u>(\$290,878)</u>
Add: Bulky Item Appliances	0.85	(\$172.29)	(4,536)
Add: Bulky Item Pick Up Program	34.31	(2.90)	4,005
<u>Total Changes to Disposal - Current Year</u>	<u>(1,295.77)</u>		<u>(\$291,409)</u>

Recology Humboldt County  
Reconciliation of Pass-Through Items  
**City of Eureka (EIC only)**

**Disposal Tonnage & Expense**

For Rate Year July 1, 2011 through June 30, 2012

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**Forecast Total Tonnage & Expense  
July 1, 2010 - June 30, 2011**

	Tons	Disposal Fee	Expense
Eureka MSW			
Debris Box	3,842.36	\$123.46	\$474,372
Residential	5,982.44	123.55	739,154
Commercial	7,033.31	123.55	868,970
<u>Total MSW</u>	16,858.11	\$123.53	\$2,082,496
Green Waste - Ex City of Eureka	41.51	49.00	\$2,034
Green Waste - Curbside	731.99	49.00	35,868
Telephone Books	0.00		0
Street Sweepings	382.34	123.54	47,235
City of Eureka Vehicles, NOS	52.22	135.72	7,087
Recycling Processing Fee	0.00	0.00	0
<u>ACRC Recycle Processing Tonnage</u>	2,117.64	50.00	105,891
<u>Sub Total</u>	20,183.81	\$112.99	\$2,280,611
Add: Bulky Item Appliances	30.00	\$571.90	\$17,157
Add: Bulky Item Pick Up Program	142.79	125.90	17,978
<u>Total Disposal - FY 2002 (Current Year)</u>	20,356.60	\$113.76	\$2,315,745

**Forecast Changes (incremental increase / decrease)  
July 1, 2011 - June 30, 2012**

	Tons	Disposal Fee	Expense
Eureka MSW			
Debris Box	57.64	(3.08)	(\$4,896)
Residential	17.56	(3.08)	(16,310)
Commercial	(33.31)	(3.08)	(25,675)
<u>Total MSW</u>	41.89		(\$46,882)
Green Waste - Ex City of Eureka	8.49	\$0.00	\$416
Green Waste - Curbside	18.01	0.00	882
Telephone Books	0.00		0
Street Sweepings	417.66	(3.08)	49,134
City of Eureka Vehicles, NOS	247.78	(3.08)	32,705
Recycling Processing Fee	180.00	50.00	9,000
<u>ACRC Recycle Processing Tonnage</u>	(197.64)	(50.00)	(105,891)
<u>Sub Total</u>	716.19		(\$60,635)
Add: Bulky Item Appliances	20.00	(\$3.08)	\$11,284
Add: Bulky Item Pick Up Program	7.21	(3.08)	446
<u>Total Additional Disposal Tonnage &amp; Expense</u>	743.40		(\$48,906)

Recology Humboldt County  
Reconciliation of Pass-Through Items  
**City of Eureka (EIC only)**  
**Disposal Tonnage & Expense**

For Rate Year July 1, 2011 through June 30, 2012

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**Forecast Total Tonnage & Expense  
July 1, 2011 - June 30, 2012**

	Tons	Disposal Fee	Expense
Eureka MSW			
Debris Box	3,900.00	\$120.38	\$469,476
Residential	6,000.00	120.47	722,843
Commercial	7,000.00	120.47	843,295
<u>Total MSW</u>	<u>16,900.00</u>	<u>\$120.45</u>	<u>\$2,035,614</u>
Green Waste - Ex City of Eureka	50.00	49.00	\$2,450
Green Waste - Curbside	750.00	49.00	36,750
Telephone Books	0.00		0
Street Sweepings	800.00	120.46	96,369
City of Eureka Vehicles	300.00	132.64	39,792
Recycling Processing Fee	180.00	50.00	9,000
ACRC Recycle Processing Tonnage	1,920.00	0.00	0
<u>Sub Total</u>	<u>20,900.00</u>	<u>\$106.22</u>	<u>\$2,219,975</u>
Add: Bulky Item Appliances	50.00	\$568.82	\$28,441
Add: Bulky Item Pick Up Program	150.00	122.82	18,423
<b>Total Tonnage &amp; Tipping Fees</b>	<b>21,100.00</b>	<b>\$107.43</b>	<b>\$2,266,840</b>

**Tip Fee Increase Calculation**

<b>M S W Tip Fee - 7/01/10</b>	<b>\$ 123.31</b>
Tip Fee - 7/01/11	120.23
Increase	(\$3.08)
% Increase	-2.5618%
<b>% Increase to 4 Decimal places</b>	<b>-2.56%</b>

<b>Green Waste Tip Fee - 7/01/10</b>	<b>\$ 49.00</b>
Tip Fee - 7/01/11	49.00
Increase	\$0.00
% Increase	0.0000%
<b>% Increase to 4 Decimal places</b>	<b>0.00%</b>

<b>Recycling Processing Fee - 7/01/10</b>	<b>\$ 50.00</b>
Tip Fee - 7/01/11	0.00
Increase	(\$50.00)
% Increase	-100.00%
<b>% Increase to 4 Decimal places</b>	<b>-100.00%</b>

Recology Humboldt County

City of Eureka

**Rates & Bases**

**Rates Effective from July 1, 2011 to June, 30, 2012**

**New Rates Effective:**

From	July 1, 2011
To	June 30, 2012

**Increase Amount**

Residential	2.260%
Commercial	2.260%
Debris Box	2.260%
Compactors	2.260%
Other <sub>1</sub>	2.260%
Other <sub>2</sub>	2.260%

# CITY OF EUREKA - Rates

Rates Effective from July 1, 2011 to June, 30, 2012

						Effective	
[Residential Rates +2.26%, Commercial +2.26%]						1-Jul-2010	1-Jul-2011
<b>COMMERCIAL</b>						<b>Current</b>	<b>NEW</b>
<u>Svc</u>	<u>Code</u>	<u>Description</u>	<u>Type of Service</u>	<u>Pickups</u>	<u>Per week</u>	<u>Mo. Rate</u>	<u>Mo. Rate</u>
Coml		Bin	1.0 Yd	1		\$ 143.49	\$ 146.73
			1.0	2		265.46	271.45
			1.0	3		387.42	396.17
			1.0	4		509.39	520.89
			1.0	5		631.36	645.61
			1.0	6		753.32	770.33
Coml		Bin	1.5 Yd	1		\$ 206.93	\$ 211.61
			1.5	2		382.82	391.48
			1.5	3		558.71	571.35
			1.5	4		734.60	751.22
			1.5	5		910.49	931.08
			1.5	6		1,086.38	1,110.95
Coml		Bin	2.0 Yd	1		\$ 261.49	\$ 267.40
			2.0	2		483.76	494.69
			2.0	3		706.02	721.98
			2.0	4		928.29	949.27
			2.0	5		1,150.56	1,176.56
			2.0	6		1,372.82	1,403.85
Coml		Bin	2.5 Yd	1		\$ 322.34	\$ 329.62
			2.5	2		596.33	609.80
			2.5	3		870.32	889.97
			2.5	4		1,144.31	1,170.15
			2.5	5		1,418.30	1,450.33
			2.5	6		1,692.29	1,730.51
Coml		Bin	3.0 Yd	1		\$ 381.89	\$ 390.52
			3.0	2		706.50	722.46
			3.0	3		1,031.10	1,054.40
			3.0	4		1,355.71	1,386.35
			3.0	5		1,680.32	1,718.29
			3.0	6		2,004.92	2,050.23
Coml		Bin	4.0 Yd	1		\$ 480.77	\$ 491.64
			4.0	2		889.42	909.53
			4.0	3		1,298.08	1,327.43
			4.0	4		1,706.73	1,745.32
			4.0	5		2,115.39	2,163.22
			4.0	6		2,524.04	2,581.11
Coml		Bin	5.0 Yd	1		\$ 595.16	\$ 608.61
			5.0	2		1,101.05	1,125.93
			5.0	3		1,606.93	1,643.25
			5.0	4		2,112.82	2,160.57
			5.0	5		2,618.70	2,677.88
			5.0	6		3,124.59	3,195.20

**CITY OF EUREKA - Rates**  
**Rates Effective from July 1, 2011 to June, 30, 2012**

						Effective	
						1-Jul-2010	1-Jul-2011
[Residential Rates +2.26%, Commercial +2.26%]							
<b>COMMERCIAL CONTINUED</b>							
<u>Svc</u>	<u>Code</u>	<u>Description</u>	<u>Type of Service</u>		<u>Pickups</u> <u>Per week</u>	<u>Current</u> <u>Mo. Rate</u>	<u>NEW</u> <u>Mo. Rate</u>
Coml		Bin	6.0 Yd		1	\$ 692.02	\$ 707.66
			6.0		2	1,280.24	1,309.17
			6.0		3	1,868.45	1,910.68
			6.0		4	2,456.67	2,512.19
			6.0		5	3,044.89	3,113.70
			6.0		6	3,633.11	3,715.22
Coml		Bin	7.0 Yd		1	\$ 823.33	\$ 841.94
			7.0		2	1,523.16	1,557.59
			7.0		3	2,222.99	2,273.24
			7.0		4	2,922.82	2,988.89
			7.0		5	3,622.65	3,704.54
			7.0		6	4,322.48	4,420.19
						<u>Current</u> <u>Rate</u>	<u>New</u> <u>Rate</u>
<b>Extra Pull Rates (per lift)</b>							
Bins		Bins	1.0 Yd			\$ 41.39	\$ 42.33
Bins		Bins	1.5 Yd			59.70	61.05
Bins		Bins	2.0 Yd			75.44	77.14
Bins		Bins	2.5 Yd			92.99	95.09
Bins		Bins	3.0 Yd			110.17	112.66
Bins		Bins	4.0 Yd			138.69	141.83
Bins		Bins	5.0 Yd			171.69	175.57
Bins		Bins	6.0 Yd			199.64	204.15
Bins		Bins	7.0 Yd			237.52	242.89



# CITY OF EUREKA - Rates

Rates Effective from July 1, 2011 to June, 30, 2012

						Effective	
[Residential Rates +2.26%, Commercial +2.26%]						1-Jul-2010	1-Jul-2011
<b>COMMERCIAL CANS &amp; CARTS</b>						<b>Current</b>	<b>NEW</b>
<u>Svc</u>	<u>Code</u>	<u>Description</u>	<u>Type of Service</u>	<u># of cans</u>		<u>Mo. Rate</u>	<u>Mo. Rate</u>
Com	20 gal	Can	Weekly	1		\$ 19.90	\$ 20.35
				2		36.71	37.54
				3		53.81	55.03
				4		70.89	72.49
				5		87.99	89.98
				6		105.08	107.45
Com	20 gal	Can	Twice/ week	1		\$ 39.82	\$ 40.72
				2		73.41	75.07
				3		107.63	110.06
				4		141.78	144.98
				5		175.99	179.97
				6		210.19	214.94
Com	30 gal	Can	Weekly	1		\$ 24.81	\$ 25.37
				2		46.54	47.59
				3		68.24	69.78
				4		89.94	91.97
				5		111.61	114.13
				6		133.34	136.35
Com	30 gal	Can	Twice/ week	1		\$ 49.61	\$ 50.73
				2		93.08	95.18
				3		136.49	139.57
				4		179.90	183.97
				5		223.24	228.29
				6		266.69	272.72
Com	40 gal	Can	Weekly	1		\$ 32.90	\$ 33.64
				2		62.71	64.13
				3		92.54	94.63
				4		122.41	125.18
				5		152.23	155.67
				6		182.09	186.21
Com	40 gal	Can	Twice/ week	1		\$ 65.79	\$ 67.28
				2		125.41	128.24
				3		185.09	189.27
				4		244.82	250.35
				5		304.47	311.35
				6		364.16	372.39
Com	64 gal	Toter	Weekly	1		\$ 45.55	\$ 46.58
				2		91.12	93.18
				3		136.63	139.72
				4		182.18	186.30
				5		227.73	232.88
				6		273.29	279.47

**CITY OF EUREKA - Rates**  
**Rates Effective from July 1, 2011 to June, 30, 2012**

						Effective	
						1-Jul-2010	1-Jul-2011
[Residential Rates +2.26%, Commercial +2.26%]						<b>Current</b>	<b>NEW</b>
<b>COMMERCIAL CANS &amp; CARTS</b>						<b>Mo. Rate</b>	<b>Mo. Rate</b>
<u>Svc</u>	<u>Code</u>	<u>Description</u>	<u>Type of Service</u>	<u># of cans</u>			
Com	96 gal	Toter	Weekly	1		\$ 67.22	\$ 68.74
				2		136.36	139.44
				3		204.55	209.17
				4		272.73	278.89
				5		340.93	348.64
				6		409.10	418.35
Com		Special Pickup (per can or toter)				\$ 28.53	\$ 29.17

**CITY OF EUREKA - Rates**  
**Rates Effective from July 1, 2011 to June, 30, 2012**

						Effective	
[Residential Rates +2.26%, Commercial +2.26%]						1-Jul-2010	1-Jul-2011
<b>RESIDENTIAL</b>						<b>Current</b>	<b>NEW</b>
<u>Svc</u>	<u>Code</u>	<u>Description</u>	<u>Type of Service</u>	<u># of cans</u>		<u>Mo. Rate</u>	<u>Mo. Rate</u>
Res	20 gal	Can	Weekly	<b>1</b>		<b>\$ 18.97</b>	<b>\$ 19.40</b>
				2		35.46	36.26
				3		51.97	53.14
				4		68.43	69.98
				5		84.95	86.87
				6		101.47	103.76
Res	30 gal	Can	Weekly	<b>1</b>		<b>\$ 23.63</b>	<b>\$ 24.16</b>
				2		44.96	45.98
				3		65.89	67.38
				4		86.86	88.82
				5		107.81	110.25
				6		128.79	131.70
Res	40 gal	Can	Weekly	<b>1</b>		<b>\$ 31.33</b>	<b>\$ 32.04</b>
				2		60.59	61.96
				3		89.40	91.42
				4		118.26	120.93
				5		147.05	150.37
				6		175.89	179.87
Res	64 gal	Toter	Weekly	<b>1</b>		<b>\$ 43.20</b>	<b>\$ 44.18</b>
				2		87.63	89.61
				3		131.49	134.46
				4		175.31	179.27
				5		219.10	224.05
				6		262.95	268.89
Res	96 gal	Toter	Weekly	<b>1</b>		<b>\$ 64.06</b>	<b>\$ 65.51</b>
				2		129.93	132.87
				3		194.85	199.25
				4		259.81	265.68
				5		324.78	332.12
				6		389.73	398.54
Res	<b>Senior Can</b>	<b>20 gal</b>	Weekly	<b>1</b>		<b>\$ 9.95</b>	<b>\$ 10.17</b>
Res	<b>Curbside Green Waste</b>	<b>96 gal</b>	Weekly	<b>1</b>		<b>\$ 3.32</b>	<b>\$ 3.40</b>
Res		Special Pickup (+ Cu Yd chg, below)				\$ 19.29	\$ 19.73
Res		Extra Bag				8.61	8.80
Res		Cu Yd pickup (per cu yd or fraction thereof)				25.44	26.01

# CITY OF EUREKA - Rates

Rates Effective from July 1, 2011 to June, 30, 2012

						Effective	
						1-Jul-2010	1-Jul-2011
[Residential Rates +2.26%, Commercial +2.26%]						Current	NEW
DEBRIS BOX & COMPACTORS						Rate	Rate
Service							
SINGLE PULL RATES							
<b>Debris Box</b> (Rate includes a basic time period of one full day after day of delivery, Sundays & Holidays excluded.)							
DB	Debris Box	13.0	Yd	open	\$	289.07	\$ 295.60
DB	Debris Box	15.0	Yd	open		394.61	403.53
DB	Debris Box	20.0	Yd	open		482.45	493.35
DB	Debris Box	20.0	Yd	covered		530.26	542.24
DB	Debris Box	30.0	Yd	open		701.08	716.92
DB	Debris Box	40.0	Yd	open		925.69	946.61
<b>Compactors</b> (Customer Owned)							
CP	Comp	13.0	Yd		\$	232.11	\$ 237.36
CP	Comp	20.0	Yd			441.62	451.60
CP	Comp	25.0	Yd			569.47	582.34
CP	Comp	40.0	Yd			748.35	765.26
Excess Weight Charge (per ton)						\$ 136.63	\$136.63

# CITY OF EUREKA - Rates

Rates Effective from July 1, 2011 to June, 30, 2012

[Residential Rates +2.26%, Commercial +2.26%]

Effective

1-Jul-2010

1-Jul-2011

## ADDITIONAL RATES

	Current Base Rate 1 Container	CPI Factor	New Base Rate 1 Container	Disposal Cost 1 Container	Combined Round (.01) 1 Container
<b>Small Compactor - Regular Service</b>					
2.0 Yard Cmp 1 x week	\$ 160.47	0.0226	\$ 164.10	\$ 791.98	\$ 956.08
2.0 Yard Cmp 2 x week	276.29	0.0226	282.53	1,539.31	1,821.84
2.0 Yard Cmp 3 x week	392.23	0.0226	401.09	2,286.76	2,687.85
2.0 Yard Cmp 4 x week	511.77	0.0226	523.34	3,037.81	3,561.15
2.0 Yard Cmp 5 x week	623.82	0.0226	637.92	3,781.37	4,419.29
2.0 Yard Cmp 6 x week	739.82	0.0226	756.54	4,528.88	5,285.42
4.0 Yard Cmp 1 x week	\$ 274.02	0.0226	\$ 280.21	\$ 1,491.19	\$ 1,771.40
4.0 Yard Cmp 2 x week	489.26	0.0226	500.32	2,923.60	3,423.92
4.0 Yard Cmp 3 x week	704.35	0.0226	720.27	4,355.86	5,076.13
4.0 Yard Cmp 4 x week	920.37	0.0226	941.17	5,789.05	6,730.22
4.0 Yard Cmp 5 x week	1,134.87	0.0226	1,160.52	7,220.72	8,381.24
4.0 Yard Cmp 6 x week	1,349.95	0.0226	1,380.46	8,652.97	10,033.43

**TEMPORARY BINS** (Rate includes a basic time period of one full day after day of delivery, Sundays and Holidays Excluded)

	Current Rate	NEW Rate
Bin 1.0 Yd	\$ 62.47	\$ 63.88
Bin 4.0 Yd	144.61	\$ 147.88
Bin 6.0 Yd	213.78	\$ 218.61

# CITY OF EUREKA - Rates

Rates Effective from July 1, 2011 to June, 30, 2012

[Residential Rates +2.26%, Commercial +2.26%]

Effective	
1-Jul-2010	1-Jul-2011

## DEMURRAGE CHARGES

		Current Rate	NEW Rate
<b>Debris Box</b>	<b>Daily charge</b>	Per day or fraction thereof:	
		13-cubic yard open	\$ 26.11
		15-cubic yard open	\$ 26.70
		20-cubic yard open	26.70
		20-cubic yard covered	26.70
		30-cubic yard open	36.17
		40-cubic yard open	44.10
	<b>Monthly charge</b>	Per month or fraction thereof:	
		13-cubic yard open	\$ 147.84
		15-cubic yard open	\$ 151.18
		20-cubic yard open	151.18
		20-cubic yard covered	190.71
		30-cubic yard open	190.71
		40-cubic yard open	227.30
<b>Bins</b>	<b>Daily charge</b>	Per day or fraction thereof:	
		1-cubic yard bin	\$ 29.14
		4-cubic yard bin	\$ 29.80
		6-cubic yard bin	29.80
	<b>Monthly charge</b>	Per month or fraction thereof:	
		1-cubic yard bin	n / a
		4-cubic yard bin	n / a
		6-cubic yard bin	n / a

Recology Humboldt County

City of Eureka

**Rates & Bases**

**Rates Effective from July 1, 2011 to June, 30, 2012**

**Includes New Commercial Recycling Program**

**New Rates Effective:**

From	July 1, 2011
To	June 30, 2012

**Increase Amount**

Residential	8.820%
Commercial	8.820%
Debris Box	8.820%
Compactors	8.820%
Other <sub>1</sub>	8.820%
Other <sub>2</sub>	8.820%

# CITY OF EUREKA - Rates

Rates Effective from July 1, 2011 to June, 30, 2012

						Effective	
						1-Jul-2010	1-Jul-2011
[Residential Rates +8.82%, Commercial +8.82%]							
<b>COMMERCIAL</b>							
<u>Svc</u>	<u>Code</u>	<u>Description</u>	<u>Type of Service</u>		<u>Pickups</u> <u>Per week</u>	<u>Current</u> <u>Mo. Rate</u>	<u>NEW</u> <u>Mo. Rate</u>
Coml			Bin	<b>1.0 Yd</b>	<b>1</b>	<b>\$ 143.49</b>	<b>\$ 156.15</b>
				1.0	2	265.46	288.88
				1.0	3	387.42	421.61
				1.0	4	509.39	554.33
				1.0	5	631.36	687.06
				1.0	6	753.32	819.79
Coml			Bin	<b>1.5 Yd</b>	<b>1</b>	<b>\$ 206.93</b>	<b>\$ 225.18</b>
				1.5	2	382.82	416.58
				1.5	3	558.71	607.99
				1.5	4	734.60	799.39
				1.5	5	910.49	990.79
				1.5	6	1,086.38	1,182.20
Coml			Bin	<b>2.0 Yd</b>	<b>1</b>	<b>\$ 261.49</b>	<b>\$ 284.55</b>
				2.0	2	483.76	526.42
				2.0	3	706.02	768.29
				2.0	4	928.29	1,010.15
				2.0	5	1,150.56	1,252.02
				2.0	6	1,372.82	1,493.89
Coml			Bin	<b>2.5 Yd</b>	<b>1</b>	<b>\$ 322.34</b>	<b>\$ 350.77</b>
				2.5	2	596.33	648.92
				2.5	3	870.32	947.08
				2.5	4	1,144.31	1,245.23
				2.5	5	1,418.30	1,543.39
				2.5	6	1,692.29	1,841.54
Coml			Bin	<b>3.0 Yd</b>	<b>1</b>	<b>\$ 381.89</b>	<b>\$ 415.57</b>
				3.0	2	706.50	768.80
				3.0	3	1,031.10	1,122.04
				3.0	4	1,355.71	1,475.27
				3.0	5	1,680.32	1,828.51
				3.0	6	2,004.92	2,181.74
Coml			Bin	<b>4.0 Yd</b>	<b>1</b>	<b>\$ 480.77</b>	<b>\$ 523.17</b>
				4.0	2	889.42	967.86
				4.0	3	1,298.08	1,412.56
				4.0	4	1,706.73	1,857.25
				4.0	5	2,115.39	2,301.95
				4.0	6	2,524.04	2,746.64
Coml			Bin	<b>5.0 Yd</b>	<b>1</b>	<b>\$ 595.16</b>	<b>\$ 647.65</b>
				5.0	2	1,101.05	1,198.15
				5.0	3	1,606.93	1,748.66
				5.0	4	2,112.82	2,299.16
				5.0	5	2,618.70	2,849.66
				5.0	6	3,124.59	3,400.16



# CITY OF EUREKA - Rates

Rates Effective from July 1, 2011 to June, 30, 2012

						Effective	
						1-Jul-2010	1-Jul-2011
[Residential Rates +8.82%, Commercial +8.82%]							
<b>COMMERCIAL CONTINUED</b>						<b>Current</b>	<b>NEW</b>
<u>Svc</u>	<u>Code</u>	<u>Description</u>	<u>Type of Service</u>		<u>Pickups</u> <u>Per week</u>	<u>Mo. Rate</u>	<u>Mo. Rate</u>
Coml		Bin	6.0 Yd		1	\$ 692.02	\$ 753.06
			6.0		2	1,280.24	1,393.16
			6.0		3	1,868.45	2,033.26
			6.0		4	2,456.67	2,673.36
			6.0		5	3,044.89	3,313.46
			6.0		6	3,633.11	3,953.57
Coml		Bin	7.0 Yd		1	\$ 823.33	\$ 895.95
			7.0		2	1,523.16	1,657.51
			7.0		3	2,222.99	2,419.07
			7.0		4	2,922.82	3,180.62
			7.0		5	3,622.65	3,942.18
			7.0		6	4,322.48	4,703.74
						<b>Current</b>	<b>New</b>
<b>Extra Pull Rates (per lift)</b>						<b>Rate</b>	<b>Rate</b>
Bins		Bins	1.0 Yd			\$ 41.39	\$ 45.05
Bins		Bins	1.5 Yd			59.70	64.96
Bins		Bins	2.0 Yd			75.44	82.09
Bins		Bins	2.5 Yd			92.99	101.19
Bins		Bins	3.0 Yd			110.17	119.89
Bins		Bins	4.0 Yd			138.69	150.93
Bins		Bins	5.0 Yd			171.69	186.84
Bins		Bins	6.0 Yd			199.64	217.25
Bins		Bins	7.0 Yd			237.52	258.47

# CITY OF EUREKA - Rates

Rates Effective from July 1, 2011 to June, 30, 2012

						Effective	
[Residential Rates +8.82%, Commercial +8.82%]						1-Jul-2010	1-Jul-2011
<b>COMMERCIAL CANS &amp; CARTS</b>						<b>Current</b>	<b>NEW</b>
<u>Svc</u>	<u>Code</u>	<u>Description</u>	<u>Type of Service</u>	<u># of cans</u>		<u>Mo. Rate</u>	<u>Mo. Rate</u>
Com	20 gal	Can	Weekly	1		<b>\$ 19.90</b>	<b>\$ 21.66</b>
				2		36.71	39.95
				3		53.81	58.56
				4		70.89	77.14
				5		87.99	95.75
				6		105.08	114.35
Com	20 gal	Can	Twice/ week	1		<b>\$ 39.82</b>	<b>\$ 43.33</b>
				2		73.41	79.88
				3		107.63	117.12
				4		141.78	154.28
				5		175.99	191.51
				6		210.19	228.73
Com	30 gal	Can	Weekly	1		<b>\$ 24.81</b>	<b>\$ 27.00</b>
				2		46.54	50.64
				3		68.24	74.26
				4		89.94	97.87
				5		111.61	121.45
				6		133.34	145.10
Com	30 gal	Can	Twice/ week	1		<b>\$ 49.61</b>	<b>\$ 53.99</b>
				2		93.08	101.29
				3		136.49	148.53
				4		179.90	195.77
				5		223.24	242.93
				6		266.69	290.21
Com	40 gal	Can	Weekly	1		<b>\$ 32.90</b>	<b>\$ 35.80</b>
				2		62.71	68.24
				3		92.54	100.70
				4		122.41	133.21
				5		152.23	165.66
				6		182.09	198.15
Com	40 gal	Can	Twice/ week	1		<b>\$ 65.79</b>	<b>\$ 71.59</b>
				2		125.41	136.47
				3		185.09	201.41
				4		244.82	266.41
				5		304.47	331.32
				6		364.16	396.28
Com	64 gal	Toter	Weekly	1		<b>\$ 45.55</b>	<b>\$ 49.57</b>
				2		91.12	99.16
				3		136.63	148.68
				4		182.18	198.25
				5		227.73	247.82
				6		273.29	297.39

# CITY OF EUREKA - Rates

Rates Effective from July 1, 2011 to June, 30, 2012

						Effective	
						1-Jul-2010	1-Jul-2011
[Residential Rates +8.82%, Commercial +8.82%]						<b>Current</b>	<b>NEW</b>
<b>COMMERCIAL CANS &amp; CARTS</b>						<b>Mo. Rate</b>	<b>Mo. Rate</b>
<u>Svc</u>	<u>Code</u>	<u>Description</u>	<u>Type of Service</u>	<u># of cans</u>			
Com		96 gal	Toter	<b>Weekly</b>	<b>1</b>	<b>\$ 67.22</b>	<b>\$ 73.15</b>
					2	136.36	148.39
					3	204.55	222.59
					4	272.73	296.78
					5	340.93	371.00
					6	409.10	445.18
Com		Special Pickup (per can or toter)				\$ 28.53	\$ 31.05

# CITY OF EUREKA - Rates

Rates Effective from July 1, 2011 to June, 30, 2012

						Effective	
[Residential Rates +8.82%, Commercial +8.82%]						1-Jul-2010	1-Jul-2011
<b>RESIDENTIAL</b>						<b>Current</b>	<b>NEW</b>
<u>Svc</u>	<u>Code</u>	<u>Description</u>	<u>Type of Service</u>	<u># of cans</u>		<u>Mo. Rate</u>	<u>Mo. Rate</u>
Res	20 gal	Can	Weekly	1		\$ 18.97	\$ 20.64
				2		35.46	38.59
				3		51.97	56.55
				4		68.43	74.47
				5		84.95	92.44
				6		101.47	110.42
Res	30 gal	Can	Weekly	1		\$ 23.63	\$ 25.71
				2		44.96	48.93
				3		65.89	71.70
				4		86.86	94.52
				5		107.81	117.32
				6		128.79	140.15
Res	40 gal	Can	Weekly	1		\$ 31.33	\$ 34.09
				2		60.59	65.93
				3		89.40	97.29
				4		118.26	128.69
				5		147.05	160.02
				6		175.89	191.40
Res	64 gal	Toter	Weekly	1		\$ 43.20	\$ 47.01
				2		87.63	95.36
				3		131.49	143.09
				4		175.31	190.77
				5		219.10	238.42
				6		262.95	286.14
Res	96 gal	Toter	Weekly	1		\$ 64.06	\$ 69.71
				2		129.93	141.39
				3		194.85	212.04
				4		259.81	282.73
				5		324.78	353.43
				6		389.73	424.10
Res	<b>Senior Can</b>	<b>20 gal</b>	Weekly	1		\$ 9.95	\$ 10.83
Res	<b>Curbside Green Waste</b>	<b>96 gal</b>	Weekly	1		\$ 3.32	\$ 3.61
Res		Special Pickup (+ Cu Yd chg, below)				\$ 19.29	\$ 20.99
Res		Extra Bag				8.61	9.37
Res		Cu Yd pickup (per cu yd or fraction thereof)				25.44	27.68

# CITY OF EUREKA - Rates

Rates Effective from July 1, 2011 to June, 30, 2012

[Residential Rates +8.82%, Commercial +8.82%]

## DEBRIS BOX & COMPACTORS

### Service

Effective	
1-Jul-2010	1-Jul-2011
Current Rate	NEW Rate

### SINGLE PULL RATES

**Debris Box** (Rate includes a basic time period of one full day after day of delivery, Sundays & Holidays excluded.)

DB	Debris Box	13.0 Yd	open	\$ 289.07	\$ 314.57
DB	Debris Box	15.0 Yd	open	394.61	429.41
DB	Debris Box	20.0 Yd	open	482.45	525.00
DB	Debris Box	20.0 Yd	covered	530.26	577.03
DB	Debris Box	30.0 Yd	open	701.08	762.92
DB	Debris Box	40.0 Yd	open	925.69	1,007.34

### Compactors (Customer Owned)

CP	Comp	13.0 Yd		\$ 232.11	\$ 252.58
CP	Comp	20.0 Yd		441.62	480.57
CP	Comp	25.0 Yd		569.47	619.70
CP	Comp	40.0 Yd		748.35	814.35

Excess Weight Charge (per ton)	\$ 136.63	\$136.63
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# CITY OF EUREKA - Rates

Rates Effective from July 1, 2011 to June, 30, 2012

[Residential Rates +8.82%, Commercial +8.82%]

Effective

1-Jul-2010

1-Jul-2011

## ADDITIONAL RATES

	Current Base Rate 1 Container	CPI Factor	New Base Rate 1 Container	Disposal Cost 1 Container	Combined Round (.01) 1 Container
<b>Small Compactor - Regular Service</b>					
2.0 Yard Cmp 1 x week	\$ 160.47	0.0882	\$ 174.62	\$ 791.98	\$ 966.60
2.0 Yard Cmp 2 x week	276.29	0.0882	300.66	1,539.31	1,839.97
2.0 Yard Cmp 3 x week	392.23	0.0882	426.82	2,286.76	2,713.58
2.0 Yard Cmp 4 x week	511.77	0.0882	556.91	3,037.81	3,594.72
2.0 Yard Cmp 5 x week	623.82	0.0882	678.84	3,781.37	4,460.21
2.0 Yard Cmp 6 x week	739.82	0.0882	805.07	4,528.88	5,333.95
4.0 Yard Cmp 1 x week	\$ 274.02	0.0882	\$ 298.19	\$ 1,491.19	\$ 1,789.38
4.0 Yard Cmp 2 x week	489.26	0.0882	532.41	2,923.60	3,456.01
4.0 Yard Cmp 3 x week	704.35	0.0882	766.47	4,355.86	5,122.33
4.0 Yard Cmp 4 x week	920.37	0.0882	1,001.55	5,789.05	6,790.60
4.0 Yard Cmp 5 x week	1,134.87	0.0882	1,234.97	7,220.72	8,455.69
4.0 Yard Cmp 6 x week	1,349.95	0.0882	1,469.02	8,652.97	10,121.99

**TEMPORARY BINS** (Rate includes a basic time period of one full day after day of delivery, Sundays and Holidays Excluded)

	Current Rate	NEW Rate
Bin 1.0 Yd	\$ 62.47	\$ 67.98
Bin 4.0 Yd	144.61	\$ 157.36
Bin 6.0 Yd	213.78	\$ 232.64

**CITY OF EUREKA - Rates**  
**Rates Effective from July 1, 2011 to June, 30, 2012**

[Residential Rates +8.82%, Commercial +8.82%]

Effective	
1-Jul-2010	1-Jul-2011

<b>DEMURRAGE CHARGES</b>
--------------------------

		<b>Current Rate</b>	<b>NEW Rate</b>
<b>Debris Box</b>	<b>Daily charge</b> Per day or fraction thereof:		
		13-cubic yard open	\$ 26.11      \$ 28.41
		15-cubic yard open	26.11      28.41
		20-cubic yard open	26.11      28.41
		20-cubic yard covered	26.11      28.41
		30-cubic yard open	35.37      38.49
		40-cubic yard open	43.13      46.93
	<b>Monthly charge</b> Per month or fraction thereof:		
		13-cubic yard open	\$ 147.84      \$ 160.88
		15-cubic yard open	147.84      160.88
		20-cubic yard open	186.50      202.95
		20-cubic yard covered	186.50      202.95
		30-cubic yard open	222.28      241.89
		40-cubic yard open	258.06      280.82
<b>Bins</b>	<b>Daily charge</b> Per day or fraction thereof:		
		1-cubic yard bin	\$ 29.14      \$ 31.71
		4-cubic yard bin	29.14      31.71
		6-cubic yard bin	29.14      31.71
	<b>Monthly charge</b> Per month or fraction thereof:		
		1-cubic yard bin	n / a
		4-cubic yard bin	n / a
		6-cubic yard bin	n / a

# AGENDA SUMMARY

**RE: FEE WAIVER REQUEST – NORTH COAST  
BIG BROTHERS, BIG SISTERS FUNDRAISER**

**FOR AGENDA DATE: JUNE 21, 2011  
AGENDA ITEM NO.:**

16

**RECOMMENDATION:**

1. Deny request for a Adorni facility fee waiver from the North Coast Big Sisters Big Brothers organization as per Fee Waiver Request Policy No. 1.76.; or
2. Reinstate the Non-Profit 50% discount in place prior to the adoption of the 2010/11 Budget for this event only; or
3. Require event holders to only pay for “hard costs”, i.e. actual staff time and supplies for the event, estimated at \$225.00

**SUMMARY:**

Big Brothers, Big Sisters will be holding an annual fundraiser “A Taste for Kids’ Sake” this October. For the past 12 years, this event has showcased over 17 caterers and over 20 wineries and breweries. Money raised from this event goes directly to providing mentoring services to children.

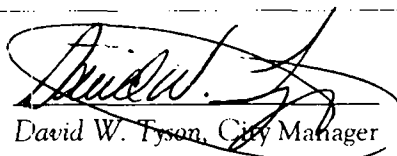
The Adorni Center is used for many fundraisers and a Council policy was adopted to address requests for fee waivers. At the time the policy was adopted, the 50% discount to Non Profit Groups was available. With the adoption of the 2010/11 budget, all facility discounts were discontinued.

(continued)

**FISCAL IMPACT:**

None with recommended action. If a complete fee waiver is approved, the fiscal impact would be \$1875.00 lost revenue to the General Fund.

**CITY MANAGER SIGNATURE:**

  
David W. Tyson, City Manager

**REVIEWED BY:**

City Attorney  
Public Works

**DATE:**

6-16-11

**INITIALS:**

BY

**Council Action:**

Ordinance No.

Resolution No.



**RE: FEE WAIVER REQUEST – NORTH COAST BIG BROTHERS, BIG SISTERS FUNDRAISER**

**FOR AGENDA DATE: JUNE 21, 2011**  
**AGENDA ITEM NO.:**  
*Page 2*

**SUMMARY** *(continued)*

Council considered the fee waiver request at the June 7, 2011 City Council meeting. After receiving public comment and discussing the request, Council continued the item and requested staff to provide additional information regarding past use of the Adorni Center by non-profit groups and fees collected/waived.

Attached is a table that shows the number of events since fiscal year 2006-07, total annual fees for the events assuming no fee reductions, fee waivers approved by Council and actual fees collected. Also attached is a list of non-profits that have utilized the Adorni Center for their events over the same period of time.

Consistent with Council Policy 1.76 (attached) staff is recommending denial of this fee waiver.

**Attachments:**

1. Letter of request attached.
2. Non-Profit Discount/Fee Waiver Report
3. List of Non-Profit Groups

# **Non-Profit Discount/Fee Waiver Report** **FY 06-11**

Fiscal Year	# of Events by Non-Profit organizations held at Adorni	Total Cost of Events if no discounts or waivers had been given (For Reference Purposes Only)	Total of Rental Fees/Discounts Waived by City Council	Actual Fees Received After Discounts & Waivers Given (as per Incode)
2006-2007	32	49,992.82	29,646.72	20,346.10
2007-2008	31	44,731.60	29,364.69	15,366.91
2008-2009	19	41,181.86	24,327.99	16,853.87
2009-2010 (Fee Waivers/Non-Profit Discount eliminated)	7	40,989.27	23,793.27	17,196.00
2010-2011 (Fee Waivers/Non-Profit Discount eliminated)	8	34,500.65	19,512.89	14,987.76
Total		211,396.20	126,645.56	84,750.64

- \* Non-profit 50% Discount Rental Rate was previously given to organization at time of reservation by staff. Non-profit 50% Discount Rental Rate was only applicable to building fees.
- \* In previous years, Council afforded organizations additional waivers upon request resulting in both 50% & 100% fees being waived beyond the 50% Non-Profit Discount.

### **Continuing Events Held at Adorni by Non-Profit Organizations**

BUDS of the Redwoods – Buddy Walk  
Redwood Coast Music Festivals – Jazz Festival (fees waived Jazz only) & Blues by the Bay  
North Coast Big Brothers Big Sisters – Taste for Kids' Sake  
Woodside Preschool – Wine Gala  
NAACP – Martin Luther King Day Celebration (fees waived)  
SW Rotary – Veteran's Day Event (fees waived)  
League of Women Voters – LWV Luncheon

### **Events no longer held at Adorni by Non-Profit Organizations**

Timber Heritage Association – October Fest  
Ink People – Holiday Gift Fair  
New Directions Foster Family Association – Christmas Party  
KEET TV – Wine Gala  
Area 1 Agency on Aging – RSVP Recognition Tea & Caregiver Celebration  
Soroptimist – Women's Health Fair (event no longer takes place)  
Tri-County Independent Living – A.T. & Respect for Abilities Fair  
  
Eureka High School – Junior Prom & Safe & Sober Graduation Party (Use school facilities)  
Eureka High School – Dancin' Delectables

**AGENDA SUMMARY**

**RE: EUREKA REDEVELOPMENT AGENCY  
"C" STREET MARKET SQUARE WATER  
FEATURE SCULPTURE**

**FOR AGENDA DATE: JUNE 21, 2011**

**AGENDA ITEM NO.:**

17

**RECOMMENDATION:**

1. Authorize the execution of an agreement with Eureka sculptor Jack Sewell for the design, construction and installation of the "C" Street Market Square Water Feature Sculpture and;
2. Council and Agency Board approve expenditure not to exceed \$30,000 from Redevelopment Bond Proceeds for the "C" Street Market Square Water Feature Sculpture Project within the Redevelopment Project Area.

**SUMMARY:**

The City of Eureka recently completed its 'C' Street Market Square project. The Market Square is a multi-purpose facility for fairs, festivals, shows, farmers markets, and various other public events. The original Market Square design included a fountain/pond/water feature. However due to lack of consensus on the design of the water feature City staff decided to remove the water feature from the original construction plans and have it designed separately by an artist to be selected through a proposal evaluation process. There is no change in the overall cost of the water feature by doing this. The C Street Market Square project included the construction of the infrastructure to support the water feature sculpture, including conduits and piping for electrical, drains, and water.

For selection of the artist, the City of Eureka and the Eureka Art and Culture Commission solicited proposals from professional and emerging local Humboldt County artists to design and construct a permanent 'Water Sculpture' at the recently constructed 'C' Street Market Square at the foot of 'C' Street on the Boardwalk in Eureka. The sculpture's location will make it a focal point of the Market Square and Boardwalk. The City listed as a requirement that the sculpture be relevant to one or more aspects relating to the rich history of the Eureka Waterfront, or of the 'C' Street Market Square site.

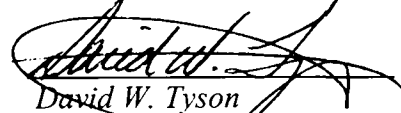
*(continued on page 2)*

**FISCAL IMPACT:** Redevelopment Bond Proceeds Account Number: 435-47000-7814-PJ 438-435  
Amount not to exceed \$30,000, already included in the budget.

**DEPARTMENT HEAD SIGNATURE:**

  
Cindy Trobitz-Thomas  
Redevelopment Director

**CITY MANAGER SIGNATURE:**

  
David W. Tyson  
City Manager

**REVIEWED BY:**

Finance  
Engineering

**DATE:**

6.16.11

**INITIALS:**

pr/sh

**Council Action:**

Ordinance No. \_\_\_\_\_

Resolution No. \_\_\_\_\_

<b>RE: EUREKA REDEVELOPMENT AGENCY "C" STREET MARKET SQUARE WATER FEATURE SCULPTURE</b>	<b>FOR AGENDA DATE: JUNE 21, 2011</b> <b>AGENDA ITEM NO.:</b> <i>Page 2</i>
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**SUMMARY** *(continued)*

On April 15<sup>th</sup> 2011, 7 proposals were received. The submittals were reviewed by a selection committee, comprised of the following individuals:

City of Eureka ~ Kurt Gierlich, Cindy Trobitz-Thomas  
Lori Goodman ~ Art in Public Places Committee  
Susan Strobe ~ Artist  
Libby Maynard ~ Ink People

The proposal submitted by Jack Sewell received the highest ranking by the committee.

On April 27, 2011, the Water Sculpture Selection Committee and Public Works Director Bruce Young met with the Jack Sewell to discuss Jack's sculpture proposal. Jack brought a working scale model of the sculpture to the meeting for discussion and potential issues were discussed. The committee agreed there were no major concerns that could not be worked out in the final design submittals, and recommends moving forward with awarding the project to Jack Sewell. (See attached Memorandum). The final design will be presented to the City of Eureka Design Review Committee for final acceptance.

The City of Eureka reserved \$20,000 from the bond proceeds for the design, construction, and installation of this sculpture. The City is requesting additional funding to accommodate adding some features to the sculpture installation, such as specialty lighting and potential landscape features, for an expenditure not to exceed \$30,000.

**RECOMMENDATION:**

1. Authorize the execution of an agreement with Eureka sculptor Jack Sewell for the design, construction and installation of the "C" Street Market Square Water Feature Sculpture and;
2. Council and Agency Board approve expenditure not to exceed \$30,000 from Redevelopment Bond Proceeds for the "C" Street Market Square Water Feature Sculpture Project within the Redevelopment Project Area.



**CITY OF EUREKA**  
**ENGINEERING DEPARTMENT**  
**MEMORANDUM**

**To:** Cindy Trobitz-Thomas

**From:** Kurt Gierlich

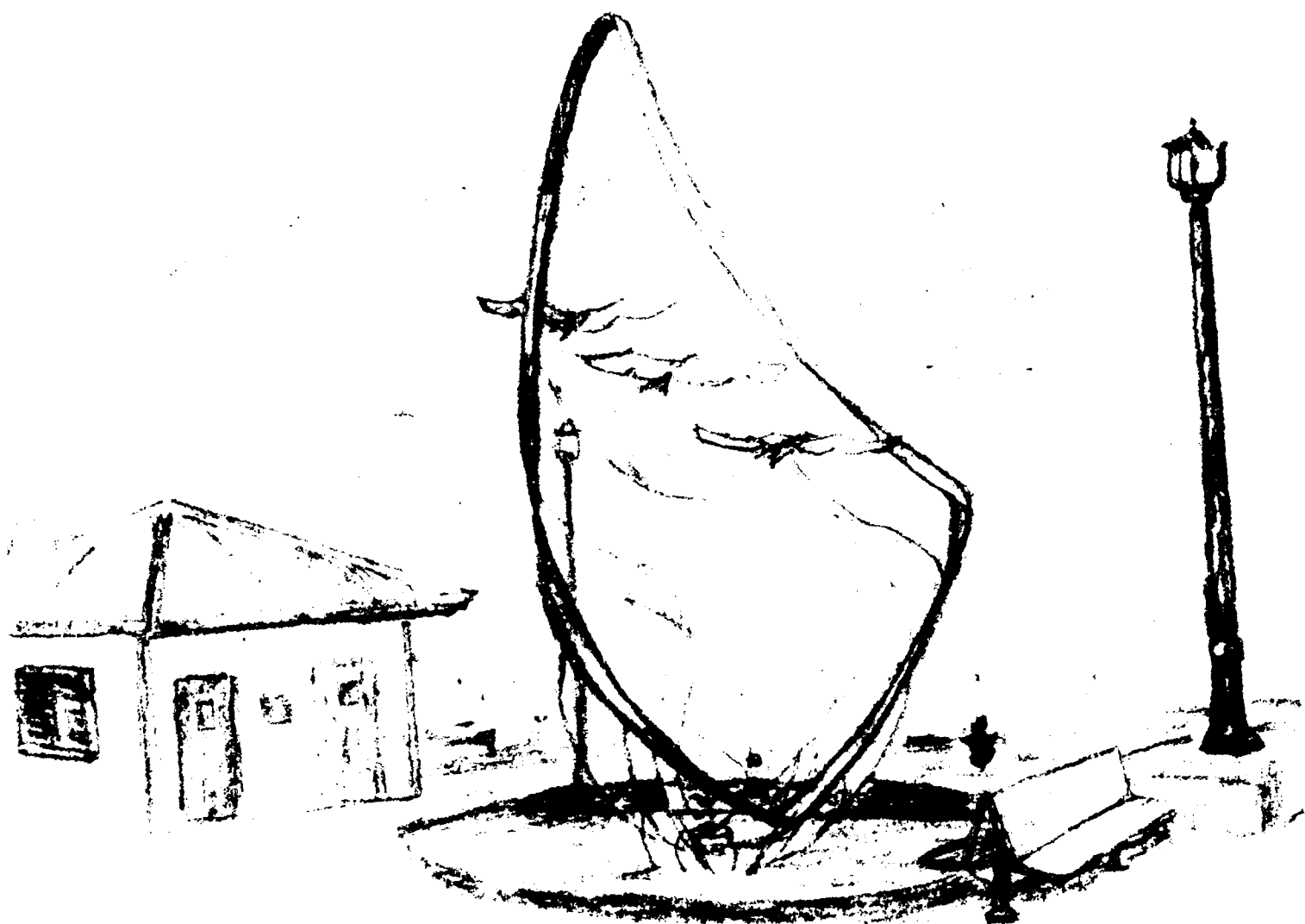
**Subject:** C Street Water Sculpture – next steps

**cc:** Bob Haynes, Lori Goodman, Libby Maynard, Susan Strobe, Bruce Young, Mike Knight

**Date:** April 29, 2011

The Water Sculpture Selection Committee + Bruce Young met with the top entrant on the water sculpture submittals, Jack Sewell, on Wednesday April 27, 2011 to discuss Jack's sculpture proposal. Jack brought a working scale model of the sculpture to the meeting for discussion. Below are the main points from the meeting:

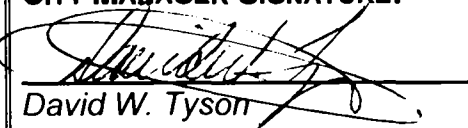
- The committee agreed there were no major concerns that could not be worked out in the final design submittals, and recommends moving forward with awarding the project to Jack Sewell. In the RFP we stated that the selected artist would be paid \$1,000 for preparing and completing the design package. The committee recommends this fee be paid up front at the time of award, with instructions on what we expect him to prepare for submittal documents for ultimate approval. Also, follow-up letters need to be send to the other six sculptors not selected, thanking them for their participation.
- The biggest concern appears to be cost. Several ideas were discussed to help mitigate the cost, as well as to generate some compensation to pay the sculptor for his time (the \$19,682 cost estimate included no compensation for Jack's time):
  - Work with Miller Farms (\$11,196) to see if they could donate some labor to the construction of the pond and pumping system to help bring down the cost.
  - Eliminate or diminish the back wall with embedded fossils, and perhaps replace it with a landscape mound to transition into the landscaping of the rear planter. Potential savings of up to \$6,200.
  - Work with Eureka Boiler works to request some labor donation (although at \$250 they must already be donating labor).
- The second biggest consideration was maintenance. Since Eureka Boiler Works/O&M Industries will be constructing the central rotating hub we will ask them to coordinate their design with Public Works and Engineering to make sure we end up with sealed bearings that can be easily maintained and replaced.
- The next concern was the location and appearance of the circulating pump vault and appurtenances. We will request that Miller Farms work with Public Works and Engineering to come up with a functional design that is easy to operate and maintain, and fits in aesthetically with the site.
- Strength of the structure can be modified as it is constructed to ensure structural stability.
- Everyone agreed that we need to find funding for lighting. We will request the sculptor to submit several ideas we can compare for cost, maintainability, and aesthetics.
- We should consider the addition of a bronze plaque embedded into the concrete. At this point I don't know if the sculpture has been named.
- After finalizing construction costs with the incorporation of the above items, figure out what the sculptor should be paid and determine how to fund the entire project with that included.



Water Sculpture  
Design  
Street Plaza  
Eureka, CA  
Apr. 2011

J. Sewell

**AGENDA SUMMARY**

<b>RE: 2011 FIREWORKS DISPLAY</b>		<b>FOR AGENDA DATE: JUNE 21, 2011</b>
		<b>AGENDA ITEM No.:</b> 18
<b>RECOMMENDATION:</b>		
<ol style="list-style-type: none"><li>1. Authorize the City Staff to coordinate the annual 4<sup>th</sup> of July Fireworks display and to execute an agreement with PYRO Spectaculars; and</li><li>2. Appropriate the \$30,000 in community donations received to fund the 2011 4th of July Fireworks display.</li></ol>		
<b>SUMMARY OF THE ISSUE:</b>		
<p>Former City Councilmember Mike Jones has coordinated the funding for the annual 4<sup>th</sup> of July Fireworks display for the past several years. He has raised over \$30,000 in support from the community for this year's display.</p> <p>These donated funds are deposited with the City in a special account and prior to their expenditure the City Council is required to appropriate the funds. City staff provides support assistance to the display through the coordination of permits; security; barge and tug services; and other logistical needs.</p> <p>Attachment: Production Agreement</p>		
<b>FISCAL IMPACT:</b> Expenditure of \$30,000 of donated funds.		
<b>CITY MANAGER SIGNATURE:</b>		
 David W. Tyson City Manager		
<b>REVIEWED BY:</b>	<b>DATE:</b>	<b>INITIALS:</b>
<b>Council Action:</b>		
Ordinance No. _____ Resolution No. _____		



May 25, 2011

City of Eureka  
David Tyson  
531 K Street  
Eureka, CA 95501

Dear Mr. Tyson,

Pyro Spectaculars North, Inc. is pleased to present to you our pyrotechnic proposal for your July 4, 2011 event. We are proposing our full service Program "A" in the amount of \$30,000.00. Your display is scheduled for 9:30 p.m.

Our full service display includes the services of a licensed pyrotechnic operator, an electronic firing system, insurance coverage, sales tax and delivery. We will process the necessary fire department permit applications. Our winning combination of products, people and production capabilities help produce the best fireworks entertainment package possible.

City of Eureka will be responsible for payment of the Eureka Fire Department permit fee, and/or standby firemen fees, if any. The Fire Department may bill you directly for any standby fees for inspections. City of Eureka will also be responsible for providing the display location and all necessary security for the display site.

Enclosed you will find a Product Synopsis, Production Agreements for signature and Scope of Work. Please have one copy of this fully executed agreement returned to our office by June 3, 2011 along with your deposit.

Please take the time to review this proposal in detail. If you wish to discuss any changes in your program or need more information, please call either myself or your Customer Service Representative Carina Herrera at (909) 355-8120 ext. 239.

Sincerely,

**PYRO SPECTACULARS NORTH, INC.**

*Matthew Gilfillan*  
Matthew Gilfillan

PYRO Show Producer

MG/kc

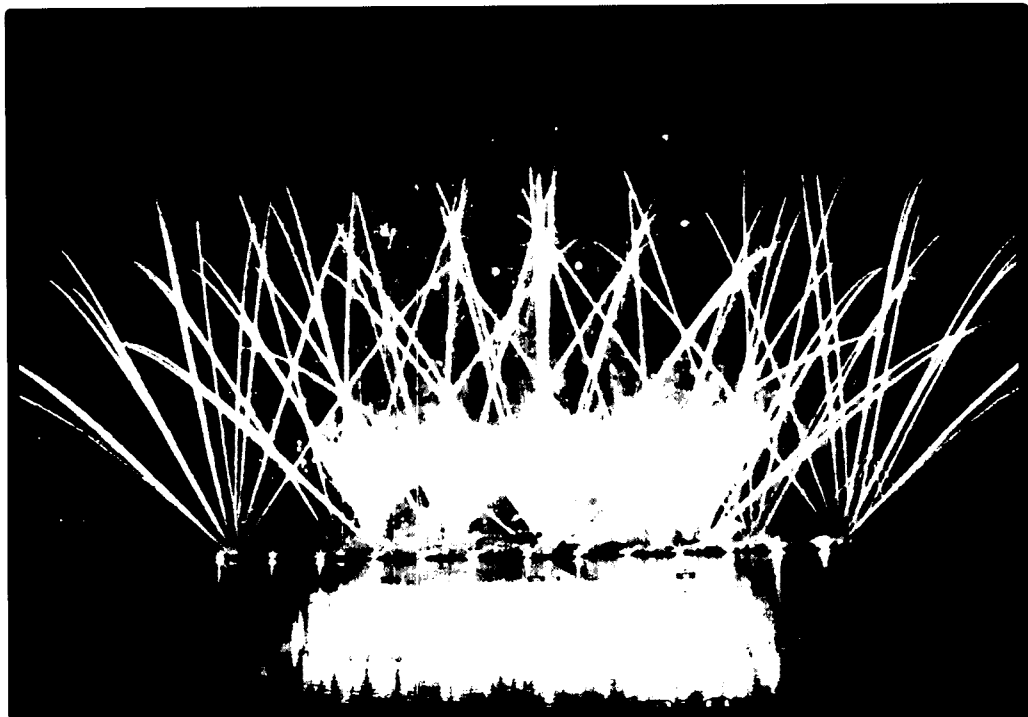
Enclosures

PYRO SPECTACULARS NORTH, INC.

5301 Lang Avenue • McClellan, CA 95652 • Phone: (916) 640-0173 • Fax: (916) 640-0174

# ***Proposal Outline for City of Eureka***

- **Product Synopsis**
- **Conclusion and Commitment**
- **Production Agreement & Scope of Work**



***Product Synopsis***  
***Pyrotechnic Proposal***  
***City of Eureka***  
***Program A***  
***\$30,000.00***

**Main Body - Aerial Shells**

<u>Description</u>	<u>Quantity</u>
◆ 5" Souza Designer Selections	108
◆ 6" Souza Designer Selections	108
◆ 8" Souza Designer Selections	12

**Total of Main Body - Aerial Shells    228**

**Pyrotechnic Devices**

<u>Description</u>	<u>Quantity</u>
◆ Sousa Gold Line Custom Multishot Device	200 Shots
◆ Sousa Platinum Line Custom Multishot Device	600 Shots

**Total of Pyrotechnic Devices    800**

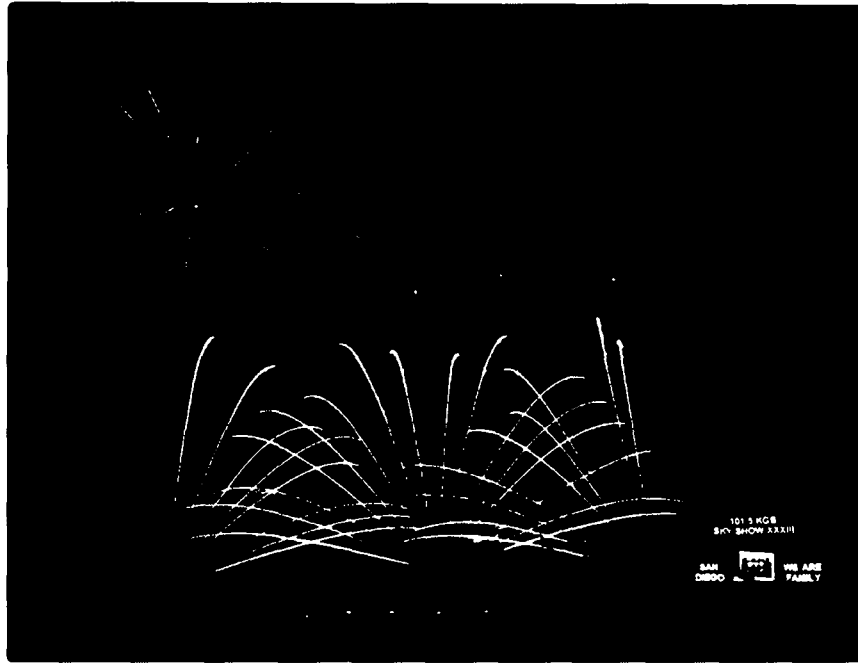
**Grand Finale**

<u>Description</u>	<u>Quantity</u>
◆ 3" Souza Designer Bombardment Shells	75
◆ 3" Souza Designer Finale Shells	120
◆ 4" Souza Designer Finale Shells	60
◆ 5" Souza Designer Finale Shells	36

**Total of Grand Finale    291**

**Grand Total 1,319**

## ***Conclusion & Commitment***



***KGB Sky Show 2008***

**W**e'd like to thank City of Eureka for allowing us to make this presentation.

**O**ur sincere effort has gone into preparing this proposal. We are eager to hear your comments and answer any questions you may have.

**W**e are confident that after your complete review of our ideas and performance capabilities you will select Pyro Spectaculars by Souza as your fireworks company.

*Matthew Gilfillan*  
*PYRO Show Producer*

## PRODUCTION AGREEMENT

This agreement ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between Pyro Spectaculars North, Inc., a California corporation, hereinafter referred to as ("PYRO"), and City of Eureka, hereinafter referred to as ("CLIENT"). PYRO and CLIENT are sometimes referred to as "Party" or collectively as "Parties" herein.

1. **Engagement** - CLIENT hereby engages PYRO to provide to CLIENT one fireworks production ("Production"), and PYRO accepts such engagement upon all of the promises, terms and conditions hereinafter set forth. The Production shall be substantially as outlined in Program "A", attached hereto and incorporated herein by this reference.

1.1 **PYRO Duties** - PYRO shall provide all pyrotechnic equipment, trained pyrotechnicians, shipping, pyrotechnic products, application for specific pyrotechnic permits (the cost of which, including standby fees, shall be paid by CLIENT) relating to the Production, insurance covering the Production and the other things on its part to be performed as more specifically set forth below in this Agreement and in the Scope of Work ("Scope of Work"), attached hereto, incorporated herein by this reference, and made a part of this Agreement as though set forth fully herein.

1.2 **CLIENT Duties** - CLIENT shall provide to PYRO a suitable site ("Site") for the Production, security for the Site as set forth in Paragraph 6 hereof, access to the Site, any permission necessary to utilize the Site for the Production, and the other things on its part to be performed as more specifically set forth below in this Agreement and in the Scope of Work. All Site arrangements are subject to PYRO's reasonable approval as to pyrotechnic safety, suitability, and security. All other conditions of the Site shall be the responsibility of CLIENT, including, but not limited to, access, use, control, parking and general safety with respect to the public, CLIENT personnel and other contractors.

2. **Time and Place** - The Production shall take place on July 4, 2011, at approximately 9:30 p.m., at Barge on Humboldt Bay, Eureka, CA, Site.

3. **Fees, Interest, and Expenses** -

3.1 **Fee** - CLIENT agrees to pay PYRO a fee of ~~\$30,000.00 USD (THIRTY THOUSAND DOLLARS)~~ ("Fee") for the Production. CLIENT shall pay to PYRO ~~\$15,000.00 USD (FIFTEEN THOUSAND DOLLARS)~~ of the Fee plus estimated permit and standby fees, specified production costs, and other regulatory costs approximated at ~~\$ 00.00 OR an amount to be determined~~, for a total of ~~\$15,000.00~~, as a deposit ("Deposit") upon the execution of this Agreement by both parties but no later than June 3, 2011. The balance of the Fee shall be paid no later than July 5, 2011. CLIENT authorizes PYRO to receive and verify credit and financial information concerning CLIENT from any agency, person or entity including but not limited to credit reporting agencies. The "PRICE FIRM" date, the date by which the executed Agreement must be delivered to Pyro, is set forth in paragraph 20.

3.2 **Interest** - In the event that the Fee is not paid in a timely manner, CLIENT will be responsible for the payment of 1.5% interest per month or 18% annually on the unpaid balance. If litigation arises out of this Agreement, the prevailing party shall be entitled to reasonable costs incurred in connection with the litigation, including, but not limited to attorneys' fees.

3.3 **Expenses** - PYRO shall pay all normal expenses directly related to the Production including freight, insurance as outlined, pyrotechnic products, pyrotechnic equipment, experienced pyrotechnic personnel to set up and discharge the pyrotechnics and those additional items as outlined as PYRO's responsibility in the Scope of Work. CLIENT shall pay all costs related to the Production not supplied by PYRO including, but not limited to, those items outlined as CLIENT's responsibility in this Agreement and Scope of Work.

4. **Proprietary Rights** - PYRO represents and warrants that it owns all copyrights, including performance rights, to this Production, except that PYRO does not own CLIENT-owned material or third-party-owned material that has been included in the Production, and as to such CLIENT-owned and third-party-owned material, CLIENT assumes full responsibility therefore. CLIENT agrees that PYRO shall retain ownership of, and all copyrights and other rights to, the Production, except that PYRO shall not acquire or retain any ownership or other rights in or to CLIENT-owned material and third-party-owned material and shall not be responsible in any way for such material. If applicable, CLIENT consents to the use of CLIENT-owned material and represents that it has or will obtain any permission from appropriate third parties sufficient to authorize public exhibition of any such material in connection with this Production. PYRO reserves the ownership rights in its trade names that are used in or are a product of the Production. Any reproduction by sound, video or other duplication or recording process without the express written permission of PYRO is prohibited.

5. **Safety** - PYRO and CLIENT shall each comply with applicable federal, state and local laws and regulations and employ safety programs and measures consistent with recognized applicable industry standards and practices. At all times before and during the Production, it shall be within PYRO's sole discretion to determine whether or not the Production may be safely discharged or continued. It shall not constitute a breach of this Agreement by PYRO for fireworks to fail or malfunction, or for PYRO to determine that the Production cannot be discharged or continued as a result of any conditions or circumstances affecting safety beyond the reasonable control of PYRO.

6. **Security** - CLIENT shall provide adequate security personnel, barricades, and Police Department services as may be necessary to preclude individuals other than those authorized by PYRO from entering an area to be designated by PYRO as the area for the set-up and discharge of the Production, including a fallout area satisfactory to PYRO where the pyrotechnics may safely rise and any debris may safely fall. PYRO shall have no responsibility for monitoring or controlling CLIENT's other contractors, providers or volunteers; the public; areas to which the public or contractors have access; or any other public or contractor facilities associated with the Production.

7. **Cleanup** - PYRO shall be responsible for the removal of all equipment provided by PYRO and clean up of any live pyrotechnic debris made necessary by PYRO. CLIENT shall be responsible for any other clean up which may be required of the Production or set-up, discharge and fallout areas including any environmental clean-up.

8. **Permits** - PYRO agrees to apply for permits for the firing of pyrotechnics only from the Eureka Fire Department, FAA, and USCG, if required. CLIENT shall be responsible for any fees associated with these permits including standby fees. CLIENT shall be responsible for obtaining any other necessary permits, paying associated fees, and making other appropriate arrangements for Police Departments, other Fire Departments, road closures, event/activity or land use permits or any permission or permit required by any Local, Regional, State or Federal Government.

9. **Insurance** - PYRO shall at all times during the performance of services herein ensure that the following insurance is maintained in connection with PYRO's performance of this Agreement: (1) commercial general liability insurance, including products, completed operations, and contractual liability under this Agreement; (2) automobile liability insurance, (3) workers' compensation insurance and employer liability insurance. Such insurance is to protect CLIENT from claims for bodily injury, including death, personal injury, and from claims of property damage, which may arise from PYRO's performance of this Agreement, only. The types and amounts of coverage shall be as set forth in the Scope of Work. Such insurance shall not include claims which arise from CLIENT's negligence or willful conduct or from failure of CLIENT to perform its obligations under this Agreement, coverage for which shall be provided by CLIENT.

The coverage of these policies shall be subject to reasonable inspection by CLIENT. Certificates of Insurance evidencing the required general liability coverage shall be furnished to CLIENT prior to the rendering of services hereunder and shall include the following: (1) that the following are named as additionally insured: CLIENT; Sponsors, Landowners, Barge Owners, if any; and Permitting Authorities, with respect to the operations of PYRO at the Production. Pyrotechnic subcontractors or providers, if any, not covered under policies of insurance required hereby, shall secure, maintain and provide their own insurance coverage with respect to their respective operations and services.

10. **Indemnification** - PYRO represents and warrants that it is capable of furnishing the necessary experience, personnel, equipment, materials, providers, and expertise to produce the Production in a safe and professional manner. Notwithstanding anything in this Agreement to the contrary, PYRO shall indemnify, hold harmless, and defend CLIENT and the additional insureds from and against any and all claims, actions, damages, liabilities and expenses, including but not limited to, attorney and other professional fees and court costs, in connection with the loss of life, personal injury, and/or damage to property, arising from or out of the Production and the presentation thereof to the extent such are occasioned by any act or omission of PYRO, their officers, agents, contractors, providers, or employees. CLIENT shall indemnify, hold harmless, and defend PYRO from and against any and all claims, actions, damages, liability and expenses, including but not limited to, attorney and other professional fees and court costs in connection with the loss of life, personal injury, and/or damage to property, arising from or out of the Production and the presentation thereof to the extent such are occasioned by any act or omission of CLIENT, its officers, agents, contractors, providers, or employees. In no event shall either party be liable for the consequential damages of the other party.

11. **Limitation of Damages for Ordinary Breach** - Except in the case of bodily injury and property damage as provided in the insurance and indemnification provisions of Paragraphs 9 and 10, above, in the event CLIENT claims that PYRO has breached this Agreement or was otherwise negligent in performing the Production provided for herein, CLIENT shall not be entitled to claim or recover monetary damages from PYRO beyond the amount CLIENT has paid to PYRO under this Agreement, and shall not be entitled to claim or recover any consequential damages from PYRO including, without limitation, damages for loss of income, business or profits.

12. **Force Majeure** - CLIENT agrees to assume the risks of weather, strike, civil unrest, terrorism, military action, governmental action, and any other causes beyond the control of PYRO which may prevent the Production from being safely discharged on the scheduled date, which may cause the cancellation of any event for which CLIENT has purchased the Production, or which may affect or damage such portion of the exhibits as must be placed and exposed a necessary time before the Production. If, for any such reason, PYRO is not reasonably able to safely discharge the Production on the scheduled date, or at the scheduled time, or should any event for which CLIENT has purchased the Production be canceled as a result of such causes, CLIENT may (i) reschedule the Production and pay PYRO such sums as provided in Paragraph 13, or (ii) cancel the Production and pay PYRO such sums as provided in Paragraph 14, based upon when the Production is canceled.

13. **Rescheduling Of Event** - If CLIENT elects to reschedule the Production, PYRO shall be paid the original Fee plus all additional expenses made necessary by rescheduling plus a 15% service fee on such additional expenses. Said expenses will be invoiced separately and payment will be due in full within 5 days of receipt. CLIENT and PYRO shall agree upon the rescheduled date taking into consideration availability of permits, materials, equipment, transportation and labor. The Production shall be rescheduled for a date not more than 90 Days subsequent to the date first set for the Production. The Production shall not be rescheduled to a date, or for an event, that historically has involved a fireworks production. The Production shall not be rescheduled between June 15th and July 15th unless the original date was July 4th of that same year, or between December 15th and January 15th unless the original date was December 31st of the earlier year unless PYRO agrees that such rescheduling will not adversely affect normal business operations during those periods.

14. **Right To Cancel** - CLIENT shall have the option to unilaterally cancel the Production prior to the scheduled date. If CLIENT exercises this option, CLIENT agrees to pay to PYRO, as liquidated damages, the following percentages of the Fee as set forth in Paragraph 3.1. 1) 50% if cancellation occurs 30 to 90 days prior to the scheduled date, 2) 75% if cancellation occurs 15 to 29 days prior to the scheduled date, 3) 100% thereafter. In the event CLIENT cancels the Production, it will be impractical or extremely difficult to fix actual amount of PYRO's damages. The foregoing represents a reasonable estimate of the damages PYRO will suffer if CLIENT cancels the Production.

15. **No Joint Venture** - It is agreed, nothing in this Agreement or in PYRO's performance of the Production shall be construed as forming a partnership or joint venture between CLIENT and PYRO. PYRO shall be and is an independent contractor with CLIENT and not an employee of CLIENT. The Parties hereto shall be severally responsible for their own separate debts and obligations and neither Party shall be held responsible for any agreements or obligations not expressly provided for herein.

16. **Applicable Law** - This Agreement and the rights and obligations of the Parties hereunder shall be construed in accordance with the laws of California. It is further agreed that the Central Judicial District of San Bernardino County, California, shall be proper venue for any such action. In the event that the scope of the Production is reduced by authorities having jurisdiction or by either Party for safety concerns, the full dollar amounts outlined in this Agreement are enforceable.

17. **Notices** - Any Notice to the Parties permitted or required under this Agreement may be given by mailing such Notice in the United States Mail, postage prepaid, first class, addressed as follows: PYRO - Pyro Spectaculars North, Inc., P.O. Box 2329, Rialto, California, 92377, or for overnight delivery to 3196 N. Locust Avenue, Rialto, California 92377. CLIENT - City of Eureka, 531 K Street, Eureka, CA 95501.

**SCOPE OF WORK**  
**PYRO SPECTACULARS NORTH, INC. ("PYRO")**  
**and**  
**City of Eureka ("CLIENT")**

Pyro shall provide the following goods and services to CLIENT:

- One Pyro Spectaculars North, Inc., Production on July 4, 2011, at approximately 9:30 p.m. at Barge on Humboldt Bay, Eureka, CA.
- All pyrotechnic equipment, trained pyrotechnicians, shipping, and pyrotechnic product.
- Application for specific pyrotechnic permits relating to the Production.
- Insurance covering the Production as set forth in the Agreement with the following limits:

<u>Insurance Requirements</u>	<u>Limits</u>	
<u>Commercial General Liability</u>	\$1,000,000.00	Combined Single Limit- Each Occurrence (Bodily Injury & Property Damage)
<u>Business Auto Liability- Owned, Non-Owned and Hired Autos</u>	\$5,000,000.00	Combined Single Limit- Each Occurrence (Bodily Injury & Property Damage)
<u>Workers' Compensation</u>	Statutory	
<u>Employer Liability</u>	\$1,000,000	Per Occurrence

CLIENT shall provide to PYRO the following goods and services:

- All on-site labor costs, if any, not provided or performed by PYRO personnel including, but not limited to, local union requirements, all Site security, Police and Fire Dept. standby personnel, stagehands, electricians, audio and fire control monitors, carpenters, plumbers, clean-up crew. All these additional personnel and services shall be fully insured and the sole responsibility of CLIENT.
- Coordination and any applicable non-pyrotechnic permitting with the local, state or federal government that may hold authority within the Production.
- Costs of all permits required for the presentation of the Production and the event as a whole.
- Provision of a Safety Zone in accordance with applicable standards and all requirements of the authorities having jurisdiction throughout the entire time that the pyrotechnics are at the Site or the load site (if different) on the date of the Production and all set-up and load-out dates, including water security to keep unauthorized people, boats, etc. from entering the Safety Zone.
- Marine services including but not limited to tugs and barges with tie-downs and anchors which shall be clean and free of debris for PYRO crew workplace, anchor and safety buoy securement and placement, as well as berthing and mating crews. General services required: forklifts, cranes, and other heavy equipment, planks, metal ramps, welders, sand, electrical power, fire suppression equipment, dumpsters, port-a-john, etc.
- General Services including, but not limited to, Site and audience security, fencing, adequate work light, dumpster accessibility, a secure office for PYRO personnel within the venue, secure parking for PYRO vehicles, access to washrooms, tents, equipment storage, hazmat storage, electrical power, fire suppression equipment, access to worksites, necessary credentialing, etc., will be required as necessary.

Pyro Spectaculars North, Inc.  
5301 Lang Avenue  
McClellan, CA 95652  
Tel: 909-355-8120 :: Fax: 909-355-9813

City of Eureka  
PROGRAM A  
July 4, 2011  
Page 3 of 4

18. **Modification of Terms** – All terms of the Agreement are in writing and may only be modified by written agreement of both Parties hereto. Both Parties acknowledge they have received a copy of said written Agreement and agree to be bound by said terms of written Agreement only.

19. **Severability** – If there is more than one CLIENT, they shall be jointly and severally responsible to perform CLIENT's obligations under this Agreement. This Agreement shall become effective after it is executed and accepted by CLIENT and after it is executed and accepted by PYRO at PYRO's offices in Rialto, California. This Agreement may be executed in several counterparts, including faxed and emailed copies, each one of which shall be deemed an original against the Party executing same. This Agreement shall be binding upon the Parties hereto and upon their heirs, successors, executors, administrators and assigns.

20. **Price Firm** – If any changes or alterations are made by CLIENT to this Agreement or if this Agreement is not executed by CLIENT and delivered to PYRO on or before the PRICE FIRM date shown below, then the price, date, and scope of the Production are subject to review and acceptance by PYRO for a period of 15 days following delivery to PYRO of the executed Agreement. In the event it is not accepted by PYRO, PYRO shall give CLIENT written notice, and this Agreement shall be void.

**PRICE FIRM through June 3, 2011**  
EXECUTED AGREEMENT MUST BE DELIVERED TO PYRO BY THIS DATE.  
See PRICE FIRM conditions, paragraph 20, above.

EXECUTED as of the date first written above:

PYRO SPECTACULARS NORTH, INC.

City of Eureka

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: President

Its: \_\_\_\_\_

\_\_\_\_\_  
Print Name

SHOW PRODUCER: Matthew Gilfillan